UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

THE HERTZ CORPORATION and HERTZ GLOBAL HOLDINGS, INC., *Plaintiffs*, v. MARK FRISSORA, ELYSE DOUGLAS, and JOHN JEFFREY ZIMMERMAN, *Defendants*.	Case No.: 2:19-cv-08927 Hon. Esther Salas, U.S.D.J. Hon. Cathy L. Waldor, U.S.M.J. Civil Action

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiffs The Hertz Corporation ("Hertz Corp.") and Hertz Global Holdings, Inc. ("Hertz Holdings," and together with Hertz Corp., the "Company," "Hertz," or "Plaintiffs"), by and through their undersigned counsel of record, hereby sue Defendants Mark Frissora ("Frissora"), Elyse Douglas ("Douglas"), and John Jeffrey Zimmerman ("Zimmerman"), and allege as follows.

<u>NATURE OF THE ACTION</u>

1. Hertz brings this action, pursuant to Hertz's 2010 and 2014 Compensation Recovery Policies (the "ClawBack Policies"), to recover, *inter alia*, approximately $70 million in incentive compensation paid to Defendants as a result of inappropriately inflated net pre-tax income publicly reported for its 2011, 2012, and 2013 fiscal years, causing the necessity of a restatement of the financial statements for those years (the "Restatement" or "Restatement Period"), as well as certain other damages suffered. The Compensation Committees of Hertz's

board of directors have made a good-faith determination that the Restatement was triggered by the gross negligence and misconduct of Hertz's senior executive officers, the Defendants – that is, the very people entrusted with safeguarding the Company's financial standing – and this lawsuit is triggered by, their subsequent refusal to honor the terms of the ClawBack Policies, and certain incentive compensation agreements, and return the incentive compensation paid to them.

2. As indicated above, under the 2010 ClawBack Policy – which was expressly incorporated into various compensation agreements Defendants entered with the Company, as well as expressly incorporated into Hertz's Standards of Business Conduct in 2009,[1] and which policy (and the amended version in 2014) were otherwise well known and agreed to by them – Defendants are now required to forfeit their unjustly received incentive pay, together with severance that was paid to Defendants, having specifically promised to do so in the event that Hertz's Compensation Committees made a formal, good-faith determination that Defendants' mismanagement caused or contributed to the Restatement of the financial results upon which those payments were based. The Compensation Committees made such a determination on February 11, 2019. The ClawBack Policies expressly state that such a determination is "final, conclusive and binding on all persons . . . and employees[.]"

[1] As indicated in Hertz's November 16, 2009 S.E.C. Form 8-K filing – which was signed by Douglas – Hertz's board approved on November 12, 2009 "an amended and restated Standards of Business Conduct (the "Code") applicable to its employees, including its Chief Executive Officer, Chief Financial Officer and Controller," which was "revised to include a "claw back" policy for all annual incentive, long-term incentive, equity-based awards and other performance-based compensation arrangements, effective January 1, 2010 . . ." and "[t]he full text of the revised Code ha[d] been posted on the "Investor Relations – Corporate Governance – Overview" portion of the Company's website at www.hertz.com." More specifically, the incorporated ClawBack policy provisions appeared in the revised Standards of Business Conduct's section "N," which was titled "Compensation Recovery Policy."

3. In addition, Hertz also seeks (i) damages of more than $200 million suffered because of the inappropriately inflated net pre-tax income from its 2011, 2012, and 2013 fiscal years, the proximate result of the Defendants' wrongful conduct, and the direct, natural and otherwise foreseeable consequence of which was a lengthy and costly investigation by the Securities Exchange Commission, additional significant fees paid to Hertz's accountants, defense of class and derivative suits by shareholders, and substantial damage to Hertz's business, and (ii) damages resulting from Frissora's and Zimmerman's breaches of their respective separation agreements with the Company.

SUMMARY OF DEFENDANTS' WRONGFUL CONDUCT: THE BASIS FOR THE COMPENSATION COMMITTEE'S GOOD FAITH, AND BINDING, DETERMINATION

4. As concerns Hertz's claims pursuant to its ClawBack Policies, the allegations of Defendants' gross negligence and other misconduct, as set forth in this Complaint, reflect, and present the context underlying, the good-faith findings and binding determination of Hertz's duly established and authorized Compensation Committees, which were acting in the best interests of the Company and its shareholders and pursuant to Hertz's contractual rights under the ClawBack Policies.

5. Defendants' gross negligence and other misconduct manifested itself in "an inconsistent and inappropriate tone at the top," as Hertz disclosed to its shareholders in the Restatement. In particular, Defendant Frissora, Hertz's Chief Executive Officer ("CEO"), during fiscal years 2011, 2012, and 2013, displayed a management style and temperament that created a pressurized operating environment at the company, where there was an inappropriate emphasis on meeting internal budgets, business plans, and current estimates, which resulted in an environment which the Compensation Committees has determined led to inappropriate

accounting decisions and the failure to disclose information critical to an effective review of Hertz's finances.

6. Upon learning that Hertz might miss a financial target, Frissora would demand mandatory team-wide calls and continuous weekend meetings, and would repeatedly berate subordinates who did not come up with a sufficient number of "paradigm-busting" accounting strategies to fill the gaps between Hertz's actual and expected performance, accusing them of not being team players if they would not play his game. Defendants Douglas and Zimmerman—Frissora's right-hand subordinates who were entrusted with effectuating his orders—failed to stop, effectively counterbalance, or otherwise offset or report to Hertz's board of directors (herein, the "Board") Frissora's inappropriately forceful tone, in breach of their duties owed to Hertz.

7. Defendants' wrongful "tone at the top" was a form of misconduct and gross negligence because it exacerbated various risk factors, among which were:

a. Defendants collectively employed or otherwise acquiesced in aggressive accounting to meet growth targets at a time when Hertz did not have a sufficient complement of personnel with an appropriate level of knowledge, experience, and training commensurate with its financial reporting requirements to ensure proper selection and application of Generally Accepted Accounting Principles ("GAAP").

b. Several major corporate endeavors were initiated by Frissora and supported by the other Defendants, including (i) Hertz's complex integration with Dollar Thrifty Automotive Group Inc. ("Dollar Thrifty"), a large competitor Hertz acquired in 2012, and its related divestiture of one of its subsidiaries; and (ii) Hertz's and Dollar Thrifty's ill-timed respective relocations from their prior headquarters to a new consolidated headquarters in Lee

County, Florida, driven by Frissora, which resulted in the departure of *more than half* of Hertz's corporate office personnel. Each of these major transitions further strained Hertz's internal controls. Frissora, with the support of the other Defendants, nonetheless placed enormous pressure on Hertz's already-taxed internal controls while they were dealing with the impact of these major corporate initiatives. Moreover, Frissora was wrongfully fixated on maximizing short-term profits at the expense of long-term objectives, the result of which he knew would boost his incentive compensation but, among other things, thereby degrading Hertz's fleet and damaging customer relationships.

c. The above-described corporate endeavors were implemented by Frissora through a distracting mix of multiple, conflicting business initiatives, and a system of colliding reporting structures, reporting lines, and decisional authority responsibilities. When combined with the pressurized operating environment set from the top down by Frissora, these created the climate in which multiple financial errors predictably occurred.

d. Defendants significantly compromised the Company's long-term security by pushing a counterproductive aggressive agenda, doing so despite knowing full well that Hertz was in a difficult and taxing period of corporate upheaval that strained the Company's already-inadequate internal controls.

THE PARTIES

8. Hertz Global Holdings, Inc. is a Delaware corporation with its principal place of business at 8501 Williams Road, Estero, Florida. Prior to 2014, Hertz Holdings' nerve center and principal place of business was in Park Ridge, New Jersey. Hertz Holdings is the parent corporation of Plaintiff Hertz Corporation.

9. The Hertz Corporation is a Delaware corporation with its principal place of business in 8501 Williams Road, Estero, Florida. Hertz Corp. retains an office in New Jersey and is a subsidiary of Hertz Holdings and operates the Hertz, Dollar, Thrifty, and Firefly vehicle rental brands, along with approximately 11,500 corporate and franchisee locations throughout North America, Central America, South America, Europe, Africa, the Middle East, Asia, Australia, and New Zealand.

10. Mark Frissora is an individual who, upon information and belief, is domiciled in a state other than Florida or Delaware. From July 2006 until his resignation on September 8, 2014, Frissora served as Board Chairman and CEO of Hertz Corp. and Hertz Holdings.

11. Elyse Douglas is an individual who, upon information and belief, is domiciled in a state other than Florida or Delaware. Douglas was employed by Hertz from July 2006 until December 2013. She served as Senior Vice President and Treasurer from July 2006 to September 2007, and as Executive Vice President and CFO from October 2007 until her resignation on September 23, 2013. Douglas continued to work for Hertz after her resignation, finally departing the Company on December 31, 2013.

12. John Jeffrey Zimmerman is an individual who, upon information and belief, is domiciled in a state other than Florida or Delaware. Zimmerman served as Executive Vice President, General Counsel, and Secretary of Hertz from December 2007 until his resignation in December 2014.

JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over the causes of action stated herein pursuant to 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship and Plaintiffs seek to recover damages in excess of $75,000. Plaintiffs are Delaware corporations

with their principal places of business in the state of Florida; Defendants are domiciled in states other than Florida or Delaware.

14. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims in this complaint occurred in this District, wherein Plaintiffs were headquartered during the great majority of the alleged wrongdoing and where Plaintiffs continue to maintain a key corporate office.

15. This Court has personal jurisdiction over each of the Defendants pursuant to Federal Rule of Civil Procedure 4(k) and New Jersey's long arm statute. Defendants carried on business in the state of New Jersey for Hertz and engaged in gross negligence and other misconduct in New Jersey, as alleged herein.

ALLEGATIONS

I. BACKGROUND

16. Hertz and its predecessor corporations have been in the truck and car rental and leasing business since 1918, and in the equipment rental business since 1965.

17. At all relevant times, the Defendants, agreed to comply with, and each was otherwise subject to, Hertz's Standards of Business Conduct (the "Standards"), which not only expressly incorporated Hertz's 2010 ClawBack Policy, but outlines the Company's general standards for the ethical and lawful conduct of its business, and imposes on each employee an individual obligation and responsibility to comply with both the intent and the literal terms of the policy. Besides requiring that employees not violate the law or the Company's ethical standards, the Standards also requires, among other things, that an employee report when another employee has violated the law or the Company's ethical standards, and required employees like Defendants to provide each year a certification concerning compliance and to disclose any potential violations of law.

18. In July 2010, Hertz began what would become a years-long effort to acquire Dollar Thrifty, one of the larger rental car companies in the United States at the time. Hertz faced stiff competition from Avis Rent a Car—one of Hertz's direct competitors in the United States rental car market (along with Enterprise Rent-A-Car)—to acquire Dollar Thrifty.

19. Dollar Thrifty targeted customers in the mid-market and budget-conscious ends of the rental car market, offering a larger variety of bargain rentals. In an effort to penetrate the bargain rental market, Hertz had previously acquired a subsidiary known as Advantage Rent a Car. However, in December of 2012, after defeating Avis's competing bids and completing its acquisition of Dollar Thrifty, Hertz divested itself of Advantage, which was eventually acquired by Catalyst Capital Group.

20. From July 2010 through the Restatement Period, Hertz was in a period of enormous institutional changes related to the acquisition of Dollar Thrifty, the integration of Hertz's and Dollar Thrifty's operations, the acquisition and divestiture of Advantage, and, later, the relocation of Hertz and Dollar Thrifty to a new consolidated headquarters in Lee County, Florida and the attendant departure of *more than half* of Hertz's corporate personnel (among other things).

21. During the Restatement Period, a majority of Hertz's directors and senior management officials were hired and/or promoted at Frissora's urging. Defendants Douglas and Zimmerman were no exceptions.

II. SUMMARY OF DEFENDANTS' RESPONSIBILITIES AND INCENTIVE COMPENSATION

22. **Mark Frissora:** Mark Frissora was hired as Hertz's Board Chairman and CEO in

July 2006, shortly before Hertz's initial public offering. Frissora presided over Hertz during a period of rapid expansion and tumultuous upheaval, including in the acquisition of Dollar Thrifty and the relocation of Hertz's headquarters from Park Ridge, New Jersey to Lee County, Florida.

a. As CEO, Frissora was Hertz's highest-ranking executive. In his capacity as CEO, Frissora was primarily responsible for managing Hertz's day-to-day operations, and guided the Company's major decisions, including the acquisition of Dollar Thrifty, the transition to a new accounting system, and the decision in 2013 to relocate Hertz's headquarters to Lee County, Florida. Moreover, Frissora was responsible for setting Hertz's vision and tone, and was the Company's most prominent business figure during the Restatement Period. Thus, it was ultimately his responsibility to ensure Hertz was adequately mitigating its financial risks. And, as CEO, he presented Hertz's financials to the Board.

b. As Hertz's senior-most officer, his vision for Hertz during the Restatement Period was implemented on a day-to-day basis through his subordinates, including Defendants Douglas, then the Chief Financial Officer ("CFO"), and Zimmerman, then the General Counsel ("GC"). Frissora took direct and intimidating and/or demeaning steps to instill an aggressively pro-growth culture within Hertz. Many of Frissora's subordinates believed that his aggressive attitude placed tremendous and inappropriate pressure on his subordinates to meet financial targets.

c. Frissora was very well compensated for his work as Hertz's CEO. In addition to his base salary (which averaged approximately $1.3 million annually during the Restatement Period), and several valuable perquisites (including the use of company aircraft and cars), Frissora received several forms of incentive-based compensation tied to Hertz's growth and earnings. Frissora's incentive pay included stock awards, option awards, non-equity

incentive plan compensation, a well-funded pension, and other forms of valuable annual and deferred compensation.

d. All told, Frissora received **millions** from Hertz in incentive compensation during the Restatement Period and additional compensation upon his resignation, which he expressly agreed to be treated as incentive compensation (under the Company's ClawBack Policy then in effect).

23. **Elyse Douglas:** Elyse Douglas was hired as Hertz's Senior Vice President and Treasurer in July 2006, at the same time Frissora was hired as CEO. She was quickly promoted to CFO in October 2007.

a. Douglas' responsibilities as CFO included supervising the presentation and reporting of Hertz's financial information to government agencies and shareholders, overseeing Hertz's capital structure and investments, and working with various consultants and other stakeholders to identify areas of growth for the Company. Moreover, as Hertz's CFO, Douglas presented Hertz's financials to the Board.

b. Douglas was Frissora's right-hand fellow executive during the Restatement Period. She was hired at the same time as Frissora, just before Hertz's November 2006 initial public offering, and Frissora quickly promoted her to CFO less than a year later. She played key roles implementing the major corporate changes Hertz underwent during the Restatement Period, including the Dollar Thrifty merger and the transition to a new accounting system.

c. Douglas also worked hand-in-hand with Frissora in ensuring the Company met its aggressive targets for growth. As CFO, she was primarily responsible for, and had direct oversight of, Hertz's financial review processes and ensuring Hertz was adequately mitigating

financial risks. Her reports were also responsible for approving Hertz's accounting changes and methodologies. Yet, she consistently deferred to Frissora and wrongfully failed to counterbalance the obvious pressure he was putting on subordinates to meet financial targets – even if it meant using questionable accounting methodologies. Nor did Douglas fulfill her obligation to inform the Audit Committee or the Board of any of that misconduct.

d. Like Frissora, Douglas received a large base salary, several valuable perquisites, and many forms of incentive-based compensation tied to Hertz's growth and earnings and additional compensation upon resignation.

24. **John Jeffrey Zimmerman:** During the Restatement Period, Zimmerman served as Hertz's Executive Vice President, General Counsel, and Secretary.

a. As Hertz's General Counsel, Zimmerman was charged with ensuring that Hertz, its officers, and its employees acted lawfully and consistently with their duties and obligations. Moreover, Zimmerman had the responsibility to ensure that the Company remained compliant with its reporting obligations to various government agencies and to shareholders, that it did not breach any covenants made to third parties including outside lenders, and that the Board and relevant committees would be kept fully informed of all material matters.

b. As General Counsel, Zimmerman was well aware of various governance, accounting and financial weaknesses. For example, he was aware of possible improper payments to Brazilian government officials, but failed to disclose what he knew to the Board.

c. Moreover, Zimmerman was aware of weaknesses within the finance and accounting organizations, pressures on those organizations, and certain accounting changes or requests for changes. For example, during the January 2013 close, Frissora urged Zimmerman to conduct a granular review of the legal reserves to help the Company "bridge the gap" for year-

end results. Then, in September 2013, Frissora again urged Zimmerman to review legal reserves to help close the quarter, saying he was "interested in taking things to trial where we have a better than 50-50 shot and reversing the settlement accrual."

d. As General Counsel and chief compliance officer, Zimmerman was responsible for ensuring the accuracy and completeness of disclosures to stockholders and the public.

e. Zimmerman's compensation reflected the importance of his responsibilities. He received a large base salary, several valuable perquisites, and many forms of incentive-based compensation tied to Hertz's growth and earnings. In addition, Zimmerman received additional compensation when he resigned, which he expressly agreed would be treated as incentive compensation (under the Company's ClawBack Policy then in effect).

III. OTHER KEY SENIOR EXECUTIVES

25. **Scott Sider**: Sider served as Hertz's Group President for Rent-A-Car Americas ("RAC Americas") during the Restatement Period. RAC Americas refers to the core of Hertz's business model: the renting of passenger vehicles within the United States.

26. As Group President for RAC Americas, Sider was primarily responsible for the day-to-day operations of Hertz's core business – Hertz's passenger rentals within the United States. As such, he was frequently in direct contact with Frissora.

27. **Jatindar Kapur:** Kapur served as Hertz's Senior Vice President of Finance and Corporate Controller during the Restatement Period.

28. Kapur's responsibilities as Hertz's Corporate Controller and V.P. for Finance included directly supervising (alongside Defendant Douglas) Hertz's financials, the Company's "closing" of various accounting periods—in which the numbers are finalized before financial

reports are completed—and overseeing Hertz's efforts to resolve and document accounting issues, financial risks, and other potential problems.

IV. DEFENDANTS' GROSS NEGLIGENCE AND MISCONDUCT UNDERLYING THE COMPENSATION COMMITTEE'S GOOD FAITH DETERMINATION AND CLAWBACK DEMANDS

29. Pursuant to the ClawBack Policies, Hertz's Compensation Committees made a good-faith determination that certain misconduct and gross negligence of Defendants caused or contributed to the Restatement of the financial results upon which certain of their incentive compensation payments were based – which determination was final, conclusive and binding on each of the Defendants under the express terms of those policies, which Defendants' had agreed to as Hertz employees. Although not necessary to sufficiently plead Hertz's breach of contract claims that are based on the ClawBack Policies, the allegations which follow below illustrate certain of the misconduct of the Defendants which underlay, and otherwise provide context for, the Compensation Committee's good faith (and binding) determination that such compensation be returned to the Company, per its ClawBack Policies and other agreements with them. In addition, the misconduct described in those allegations also comprise Defendants' breaches of Hertz's Standards, which demands from its employees, *inter alia*, integrity and ethical and lawful conduct of its business, including honest, accurate and fair books, records and accounting and the disclosure of misconduct.

A. Defendants Materially Weaken Hertz's Internal Controls

30. Hertz's size and complexity—both before and after the Dollar Thrifty acquisition meant that the Company needed to have strong internal controls to prevent mismanagement and faulty accounting practices from slipping through the cracks.

31. However, during the Restatement Period, Hertz suffered from numerous material

deficiencies in internal controls that Defendants were aware of yet failed to correct. These deficiencies predictably made it inevitable that Frissora's unchallenged aggressive push for profits would result in financial misstatements. These deficiencies included, but are not limited to: (a) inappropriate tone at the top; (b) insufficient personnel with a lack of training, knowledge, and experience commensurate with financial reporting requirements; (c) lack of organizational structure; (d) ineffectively designed controls over non-fleet procurement process; (e) ineffectively designed controls over accounting estimates; (f) ineffectively designed controls over the review, approval, and documentation of manual journal entries; (g) ineffective controls over GAAP policies and procedures; (h) ineffective controls in response to the risks of material misstatement; (i) insufficient controls over the preparation, analysis, and review of significant account reconciliations and closing adjustments; (j) ineffective process for internal communication between accounting and other departments within the business; and (k) ineffective internal audit function.

32. More specifically, Defendant Douglas, Hertz's CFO, had minimal experience as the Company's Treasurer before her promotion to CFO. Her subordinates similarly lacked experience in GAAP, including Hertz's head of internal finance services.

33. Frissora was also aware of these deficiencies. He not only hired and promoted Douglas but received frequent Human Resources summaries as CEO, which informed him about "the general environment in Finance," where employees were "overworked," suffered from "a lack of communication," and were beset by other significant concerns.

34. These personnel risk factors were exacerbated by two other powerful factors: (a) the departure of a substantial number of personnel when Hertz began its ill-timed relocation of its operations in Lee County, Florida (reducing the size of its Park Ridge, New Jersey offices);

and (b) the early retirement of a substantial number of senior personnel in 2011 and 2012 under Hertz's early retirement program.

35. Ultimately, throughout the Restatement Period, during which Defendants sought the review of an enormous number of major accounting changes, Hertz lacked appropriately trained accounting review personnel throughout its corporate structure. This deficiency was the result of Defendants' effort to aggressively cut costs, which resulted in reduced head-count for their financial review teams and contributed to Hertz's inability to hire appropriately qualified, GAAP-trained accounting personnel.

36. Moreover, Hertz's financial review team was under substantial strain during the Restatement Period, during which Hertz underwent a series of corporate changes including the acquisition of, and integration with, Dollar Thrifty, the acquisition and divestiture of Advantage, the dislocation and employee turnover caused by the Company's relocation to Lee County, Florida beginning in May 2013, and the expansion of Hertz's retail car sales outlets.

37. The deficiencies associated with Hertz's under-qualified and overtaxed review team were compounded by Hertz's lack of a centralized accounting system during the Restatement Period, a substantial number of critical accounting decisions were left to the subjective judgments of accounting personnel, exacerbating existing control deficiencies.

38. Rather than delay the integration of the new accounting system, or otherwise ensure that the existing control deficiencies were not so exacerbated, Defendants chose to push for major changes in its accounting processes at precisely the same time Hertz underwent the major, complicated corporate changes discussed above. Doing so further strained Hertz's internal controls.

39. On top of the foregoing control deficiencies, Hertz suffered throughout the

Restatement Period from a lack of overall clarity regarding which departments were actually responsible for accounting changes, judgments, and policies. Hertz had Finance Shared Services personnel in Oklahoma City, Divisional and Fleet Accounting personnel in different countries and business units, accountants working in the Corporate Controller office, and finance business partners. There were frequent issues with authority and jurisdiction between these groups, which Defendants failed to correct. Chain-of-command issues contributed to several of the accounting errors that lead to the Restatement, as several critical changes were not appropriately vetted. Moreover, it enabled various stakeholders, including Defendants, to point fingers at others rather than accept responsibility for errors.

40. Moreover, Defendant Douglas' poor managerial style failed to remediate these overlapping command hierarchies. As Frissora learned from Human Resources managers within Hertz and then wrote in an e-mail that

> "[t]he communication within [Hertz's finance department] is not good," because "several different directives are relayed by Elyse's lieutenants after a staff meeting . . . and those directives are often diametrically opposed. This leads to frustration as the staff is forced to do multiple tasks knowing most of them are in vain. Requests for clarification from the staff to her direct reports are often unanswered and there is a **fear to go to Elyse directly** because of the potential ramifications of going over a direct supervisor's head. **In fact, most feel they are always on the 'firing line.' The culture is generally fear based. The staff does not like being in meetings with Elyse or their direct supervisors as the meetings tend to lead to fits of yelling**." [Emphasis added.]

41. As a result of Defendants' poor management, Hertz's financial review personnel were "bordering on burn out (if not already there)" because "[c]communication [was] not good," and "[m]orale [was] not good." Indeed, Hertz's Human Resources personnel noted that the financial review teams "fe[lt] the current work processes [were] flawed," and that they were

"penalized for asking questions." Defendants plowed forward with their aggressive cost-cutting agenda despite knowing the extent of these risk factors.

42. Ultimately, Defendants, the Company's senior-most officers, were responsible for streamlining its hierarchy and ensuring the appropriate review of accounting changes. Their failure to do so constituted gross negligence and misconduct contributed to the need for the Restatement.

43. All told, Defendants caused, and contributed to the worsening of, each of the foregoing deficiencies by and through their gross negligence and misconduct.

44. The aggressive tone and the deficiencies described above "reached a boiling point" during the Restatement Period, in the words of one Hertz employee, who noted that there was tremendous "pressure" being applied (particularly by Frissora) to improve numbers and that it had placed incredible strain on his review team. Thus, Frissora's decision, acquiesced in by the other Defendants, to keep pushing for aggressive cost-cutting measures—despite their direct contributions to the foregoing deficiencies—crossed the line into gross negligence and misconduct during the Restatement Period.

B. Accounting Wrongdoing Caused or Contributed to by Defendants

1. Tone at the Top

45. In significant part, the accounting errors and need for the Restatement were due to the inappropriate "tone at the top," which misconduct precipitated Defendants' grossly negligent mismanagement of the Company. The following examples are illustrative of the inappropriate "tone at the top" set by Frissora, which Douglas and Zimmerman fueled and/or failed to counterbalance or otherwise challenge.

a. Frissora would, on a consistent basis, aggressively seek "opportunities" to increase earnings and promote eleventh hour (near the close of a financial reporting period) efforts to "close the gap."

b. One such change—later identified in the Restatement—was to extend the amortization period on Hertz's vehicles. Such a change would permit Hertz to spread out costs of the vehicles in its fleet, reducing monthly expenses by dividing the total amount of depreciation over a longer period of time. In particular, Defendants' subordinates zeroed in on increasing the amortization period for vehicle registration and title fees as a way of quickly cutting costs.

c. One challenge with establishing amortization periods for vehicle registration and license fees is that the period can be different in each U.S. state or municipality, and it was difficult to obtain information on a car-by-car or jurisdiction-by-jurisdiction basis for vehicle licenses and registrations. Hertz therefore used estimates for amortization periods. At the beginning of the Restatement Period, the amortization period was 16 months.

d. However, Hertz's accounting personnel were unable to obtain data to develop sufficient documentation of the basis for extending the depreciation period on vehicle license and registration fees.

e. Nonetheless, the vehicle license and registration period extension was sent directly to Douglas as a way to "bridge" Hertz's financial gap. Hertz ultimately extended the amortization period to 18 months, cutting $1.5 million in costs from their books.

f. Frissora initiated a related change, to wit, retaining existing vehicles for longer periods of time. This change would result in short-term savings—for example, by extending the planned holding period for the vehicles, losses could be deferred in what was a

declining market. Moreover, the strategy came with adverse long-term costs, including a reputational cost because Hertz's customers expected cars to be newer, lower-mileage vehicles. The decision to shift a greater percentage of Hertz's fleet into a longer planned holding period would result in not only lower depreciation rates, but also lower customer satisfaction. However, Defendants approved the change in planned holding periods for parts of the fleet despite these risks.

g. These and other financial and accounting changes were promoted and approved by Douglas with the active consent and encouragement of Frissora and the grossly negligent failure of Zimmerman to inform the Board and take corrective action.

2. Defendants' Misconduct and Gross Negligence Necessitated The Restatement Of More Than $200 Million In Hertz's Pre-Tax Income

46. In or about November 2014, the Company, with the advice of its outside auditors, determined that a restatement of its financials from fiscal years 2011, 2012, and 2013 would be needed.

a. The Restatement, filed with the SEC on July 16, 2015, disclosed that the "**material weaknesses**" in the Company's internal controls—which were caused and/or exacerbated by Defendants' mismanagement—"**resulted in certain instances of inappropriate accounting decisions and inappropriate changes in accounting methodology**," and that, in particular, Hertz had not "design[ed] effective controls over . . . period-end financial reporting processes," such as the "closing adjustments[.]" [Emphasis added.]

b. Hertz (with the assistance of its outside auditor) concluded that its "**incorrect accounting was caused by the foregoing control deficiencies**, along with a complex mix of structural and environmental factors," which explicitly included: (i) "**the tone set and pressures imposed** by our former Chief Executive Officer, which . . . may have been a

factor influencing one or more employees to record an accounting entry now determined to be improper; (ii) "**the overall historic accounting environment**" within Hertz; and (iii) "the **distraction caused by the multiple, conflicting business initiatives**; challenges related to managing **complex, inefficient legacy systems**; the **lack of a sufficient complement of personnel with an appropriate knowledge, experience, and training with GAAP**; [and] **unclear reporting structures**." [Emphasis added.]

c. Defendants were responsible not only for Hertz's material control deficiencies but for the inappropriate "tone at the top;" failing to ameliorate Hertz's "accounting environment," which was beset with personnel problems and poor morale; imposing the distraction of "multiple, conflicting business initiatives;" *and* the distraction caused by the enormous corporate upheaval Hertz underwent during the Restatement Period. "As a result of the foregoing . . . [Hertz] restated [its] financial statements for the years ended December 31, 2012 and 2013," and "restated unaudited selected financial data for the year ended December 31, 2011."

47. All told, the Company's July 16, 2015 Restatement identified **accounting errors**, broken into six broad categories: (a) reserve accounts, (b) fleet adjustments, (c) fixed asset adjustments, (d) Brazil issues, (e) improper accounting reclassifications, and (f) other adjustments. In the end, "[t]he cumulative impact of the . . . misstatements . . . was approximately a **$349 million in pre-tax income and $231 million reduction in net income**." [Emphasis added.]

48. The plethora of accounting errors are described in detail in Hertz's Form 10-K filing for year ended December 31, 2014, an excerpt from which is attached to this Complaint as **Exhibit 1**.

49. In addition, after a lengthy investigation, the SEC issued an "Order Instituting Cease-And-Desist Proceedings Pursuant To Section Sa Of The Securities Act Of 1933 And Section 21c Of The Securities Exchange Act Of 1934, Making Findings, And Imposing A Cease And Desist Order" ("SEC Order"), which among other things, sets forth findings of the SEC regarding the accounting errors, which caused the necessity of the Restatement. Those accounting errors were caused or contributed to by the gross negligence and misconduct of each of the Defendants. The SEC Order is attached to this Complaint as **Exhibit 2** and incorporated by reference in these allegations.

V. DEFENDANTS' RESIGNATIONS AND RELATED AGREEMENTS

50. **Defendant Douglas:** The first of the Defendants to resign was Douglas, whose formal resignation was to be effective on October 1, 2013. However, Douglas continued her work for the Company until December 31, 2013, including work related to the Company's financial statements for the third and fourth quarters of 2013, and the lead-up to the auditing of its fiscal year 2013 financials.

51. Upon Douglas' resignation, she and Hertz entered into a Separation Agreement on or about September 23, 2013. The Separation Agreement provided certain severance and related benefits (the "Golden Parachute").

52. **Defendant Frissora:** Shortly after the Audit Committee directed its first internal review of Hertz's financials, and as the Company began investigating the mismanagement that would ultimately lead to the Restatement, Frissora tendered his resignation on September 8, 2014. Shortly before his resignation, the SEC informed Hertz in June 2014 that its financials were under investigation.

53. Upon Frissora's resignation, he and Hertz entered into a Separation Agreement,

which provided him with a Golden Parachute.

54. Frissora's Golden Parachute included, *inter alia*, a single lump-sum payment, the retention of certain incentive-based equity awards, eligibility for 68% of his 2014 bonus, and the continued use of certain perquisites such as car privileges and insurance coverage.

55. **Defendant Zimmerman:** The last of the Defendants to resign their position in the Company was Zimmerman, who resigned on December 5, 2014, shortly after the Audit Committee concluded that a formal restatement would be necessary, and informed Hertz's shareholders of the same.

56. Upon Zimmerman's resignation, he and Hertz entered into a Separation Agreement, which provided him with a Golden Parachute. Zimmerman's Golden Parachute included, *inter alia*, a series of lump-sum payments the retention of certain incentive-based equity awards, eligibility for 92.9% of his 2014 bonus, and the continued use of certain perquisites such as insurance coverage.

VI. DAMAGES

57. As a result of Defendants' wrongful refusal to return the compensation demanded of them pursuant to the ClawBack Policies, Hertz has been damaged in the amount of, at a minimum, the amounts demanded and not returned and the time-value loss of such monies paid, as further described below. In addition, as a result of Defendants' prior, underlying misconduct and grossly negligent mismanagement of Hertz, in breach of their contractual obligations under the Company's Standards, the Company predictably suffered four significant additional direct, natural and otherwise foreseeable consequences beyond the stark decrease in the public value of the Company and the impact on Hertz's reputation with customers and the investing public. Those negative consequences were: (1) the impact of several securities class-action lawsuits filed against Hertz; (2) the costs of investigating and defending against multiple shareholder derivative

demands, one of which has resulted in ongoing litigation; (3) the effect of four separate federal and state government investigations; and (4) the cost to Hertz to remedy the continuing impact of Defendants' prior misconduct and (grossly negligent) mismanagement, including increased costs of financing and capital.

58. **Securities Lawsuits:** On November 20, 2013, the action styled *Ramirez, Jr. v. Hertz Global Holdings, Inc. et al.*—the first action filed in connection with certain consolidated securities cases filed against Hertz (herein, "Ramirez")—was commenced against Hertz, Frissora, and Douglas. *Ramirez* was a class-action lawsuit on behalf of investors who held shares in Hertz during a period including the Restatement Period. The class-action plaintiffs alleged that Hertz and the individual defendants made material misstatements about the Company's financial well-being and its internal controls. The class-action plaintiffs sought the recovery of hundreds of millions of dollars in damages.

59. Over the course of Hertz's successful legal defense against the plaintiffs' claims, five separate complaints were withdrawn or dismissed in *Ramirez*. On April 27, 2017, Hertz secured a final dismissal with prejudice of the plaintiffs' claims. That final dismissal was later affirmed by the U.S. Court of Appeals for the Third Circuit on September 20, 2018. However, the *Ramirez* plaintiffs have recently filed a motion seeking relief from the dismissal order based on the SEC findings appearing in the SEC Order, in conjunction with a settlement, pursuant to which Hertz paid a $16 million settlement to the SEC.

60. Hertz's thus-far-successful legal defense came, of course, at significant expense—more than $25 million—because of Defendants' gross negligence and misconduct, as aforesaid.

61. **Shareholder Derivative Demands:** As a result of Defendants' wrongdoing in

breach of the Standards, Hertz's Board received books and records and derivative demands from multiple shareholders. Hertz incurred legal fees as a result of its document productions, investigations, and responses to these demands.

62. Hertz and its Board complied with all applicable duties in investigating and responding to the demands.

63. One demand resulted in a shareholder derivative lawsuit filed on May 30, 2018 against the Company, members of its Board, and Frissora and Douglas in the Court of Chancery for the state of Delaware. Therefore, as a result of Defendants' misconduct and grossly negligent mismanagement, the Company and its Board remain in legal jeopardy from this lawsuit and other potential shareholder derivative lawsuits.

64. **Federal and State Government Investigations:** As a result of Defendants' misconduct and grossly negligent mismanagement in breach of the Standards, Hertz also faced significant legal liability from two separate federal government investigations, and one state government investigation.

65. *First*, in June 2014, the SEC informed Hertz that it was under investigation with respect to certain financial improprieties, including material misstatements. As a result, the Company underwent an invasive and otherwise burdensome investigation by the SEC, with which it cooperated. On December 31, 2018 Hertz settled with the SEC and paid $16 million dollars to the SEC as a result of the accounting errors detailed in the SEC's findings and this Complaint, and issued the SEC Order, referenced above and attached as Exhibit 2.

66. *Second*, in June 2016, Hertz learned that the U.S. Attorney's Office for the District of New Jersey ("NJUSAO") was investigating the Company as well. As a result, the Company similarly underwent an invasive investigation by the NJUSAO.

67. *Third*, in December 2014, the New Jersey Bureau of Securities informed Hertz that it was under investigation, likewise for financial improprieties, including material misstatements. As a result, the Company underwent an invasive investigation by the New Jersey Bureau of Securities.

68. **Increased Financing and Capital Costs**. Moreover, the delay in the issuance of the Restated Financial Statements adversely affected Hertz's access to capital markets and the cost thereof.

69. **ClawBack Damages.** ClawBack Damages are owed as a result of Defendants' wrongful refusal to return the compensation amounts Hertz has demanded from them, which amounts they are clearly required to return under the terms of the ClawBack Policies and the various agreements pursuant to which they received such monies (that is, certain "Performance Stock Unit" agreements, "Employee Stock Option" agreements, "Price Vested Stock Unit" agreements and Separation Agreements (as listed in **Exhibit 3** hereto), which expressly note that those payments were made subject to those agreements).

70. During the Restatement Period, Defendants, in total, received more than seventy million dollars in incentive-based compensation. Hertz's Compensation Committee has voted in favor of reclaiming *all* available incentive compensation—as they are entitled to seek under the ClawBack Policies.

71. Separate from their available incentive compensation during the Restatement Period, each of the Defendants also received certain other incentive-based compensation as a part of their Separation Agreements, including their Golden Parachutes discussed above. The Compensation Committees have also voted in favor of reclaiming Defendants' Golden Parachutes.

72. The Committees' decision to demand the return of such monies is proper because the Board's Compensation Committee determined in good faith, pursuant to the ClawBack Policies, that it was in the best interests of the Company and that Defendants' misconduct and gross negligence "caused or contributed to" the need for the Restatement. Defendants' disregard for the substantial risk factors *they created* in pursuit of aggressive cost-cutting triggered the need for the Restatement. Defendants' aggressive growth strategy, in combination with Hertz's materially deficient internal controls which they failed to correct, led to the accounting errors, which necessitated the Restatement.

73. The Committees' decision to demand return of such monies is also proper under the ClawBack Policies because Hertz identified the need for the Restatement within three years of the public filing of the first financials subject to the Restatement—Hertz's fiscal year 2011 Form 10-K, which was filed February 27, 2012. Hertz's Audit Committee identified the need for the Restatement in early November 2014, and informed shareholders of the need for the Restatement shortly thereafter. Thus, Hertz identified the need for the Restatement within three years of the filing of its fiscal year 2011 financials, and well within three years of the filing of its fiscal year 2012 and 2013 financials.

74. And, the Committees' decision to demand return of Golden Parachutes is also proper under the 2014 ClawBack Policy.

75. **Other Contract Damages – the Separation Agreements.** In addition to their contractual duties under the ClawBack Polices, Defendants' various incentive compensation agreements, and Hertz's Standards (which were breached, as described above), Defendants Frissora and Zimmerman represented in each of their Separation Agreements, among other things, that they had not "engaged in any conduct that constitutes willful gross neglect or willful

gross misconduct with respect to [their] employment duties with [Hertz] which has resulted or will result in material economic harm" to Hertz, and that [they] had not "facilitated . . . and ha[ve] no knowledge of, any financial or accounting improprieties or irregularities." Those representations were false—as they *had* engaged in grossly negligent conduct and knew of accounting improprieties and irregularities, as described above—and constituted a breach of such contracts.

76. Frissora and Zimmerman further "acknowledge[d] and agree[d]" that Hertz entered into the Separation Agreements "in reliance on th[ose] representations . . . which constitute terms of th[ese] Agreement[s]."

77. Thus, Frissora and Zimmerman are liable to the Company as a result of their breaches of their respective Separation Agreements for, *inter alia*, the monies paid to them pursuant to their Separation Agreements that would not have been paid but for the misrepresentations they each made in their respective Separation Agreements, as well as the time-value-of-money losses resulting from those payments.

78. **Other Contract Damages – Hertz's Standards.** In addition, all Defendants are liable to the Company for such amounts that resulted from their respective failures to comply with the Standards and the disclosure requirements thereunder, including but not limited to:

a. Legal Fees & Related Expenses: Hertz has incurred significant legal fees and expenses for the Company's internal investigation and the cost of responding to the lawsuits and investigations initiated by the securities plaintiffs, the SEC, the NJUSAO, the New Jersey Bureau of Securities, and shareholder derivative plaintiffs. Those fees and expenses include but are not limited to fees and expenses paid to lawyers, experts, consultants, or other agents

retained on their behalf, and attendant costs related thereto, such as document database hosting fees and maintenance.

b. Auditor Review Costs: As a part of Hertz's internal investigation, Hertz suffered the burden of significant costs related to their auditor's subsequent internal review of the Company's finances and fees paid to others to further investigate the Company's finances and the breakdowns in controls that lead to the Restatement.

c. Heightened Costs of Subsequent Audits: As a result of the Restatement, Hertz's independent auditor must conduct significantly more invasive/burdensome audits than it had in years past.

d. Costs of Financing Waivers: As a result of the Restatement, and the attendant delays in filing the Company's 2014 fiscal year financials with the SEC, Hertz was in danger of breaching "timely filer" and other similar covenants in its debts with third-parties. To avoid breaching its financing arrangements and possibly accelerating the Company's debts, Hertz was forced to secure—at significant cost—waivers for any "timely filer" violations.

e. Higher-Than-Necessary Taxes: Defendants' wrongful conduct caused Hertz to report in excess of $200 million in additional pre-tax income to local, state, and federal tax assessors. As a result, Defendants' mismanagement resulted in significantly inflated tax liabilities for the Company throughout the Restatement Period.

79. Outside of these quantifiable damages, the Company has suffered from significant other costs stemming from the Restatement, including the enormous negative impact Defendants had on the Company's market capitalization and the distraction of management's attention from running the core business to addressing the Restatement processes and related investigations.

80. All told, the costs to the Company resulting from the remediation of the Restatement matters continue to this day. Defendants' wrongful conduct and gross negligence in breach of the Standards has damaged Hertz in excess of $200 million to date.

COUNT I

BREACH OF CONTRACT: Enforcement of the 2010 ClawBack Policy to recover incentive-based compensation from fiscal years 2011, 2012, and 2013 (against all Defendants)

81. Plaintiffs repeat and reallege the allegations set forth above, as though fully set forth herein.

82. The ClawBack Policy adopted by Hertz in 2010 provides that,

> all determinations and decisions made by the Compensation Committee pursuant to the provisions of this Compensation Recovery Policy shall be ***final, conclusive and binding*** on all persons, including the Company, its affiliates, its stockholders and employees. [Emphasis added.]

83. The 2010 ClawBack Policy generally provides that Hertz's "executive officer[s]" receiving "any annual incentive, long-term incentive, equity-based award or other performance-based award . . . shall repay or forfeit . . . any [such compensation] received by him or her if" four conditions are met:

a. "[T]he payment, grant or vesting of such [incentive-based compensation] was based on the achievement of financial results that were the subject of a restatement . . . as filed with the Securities and Exchange Commission []";

b. "[T]he need for the restatement was identified within 3 years after the date of the … filing of the financial results that were subsequently restated";

c. "[T]he Compensation Committee determines in its ***sole discretion***, exercised in good faith, that the executive officer's ***gross negligence***, fraud or misconduct caused or contributed to the need for the restatement[]"; *and*

d. "[T]he Compensation Committee determines in its ***sole discretion*** that it is in the best interests of the Company and its stockholders for the executive officer to repay or forfeit ***all or any portion of*** the [incentive-based compensation]." [Emphasis added.]

84. The terms of the 2010 ClawBack Policy were made clear in various valid and enforceable written agreements which were fully performed by Hertz, and pursuant to which such compensation was awarded to Defendants (that is, certain "Performance Stock Unit" agreements, "Employee Stock Option" agreements, and "Price Vested Stock Unit" agreements), and were otherwise known, understood, and agreed to by each of the Defendants.82. At all relevant times, Defendants were "executive officers" of Hertz subject to the Company's 2010 ClawBack Policy (which remained in effect until amended and restated in 2014).

85. For the 2011, 2012, and 2013 fiscal years, Defendants each received a substantial amount of incentive-based compensation covered by the 2010 ClawBack Policy, which covered incentive-based compensation paid on or after January 1, 2010. In total, Defendants received more than $70 million in incentive-based pay during this period.

86. The Compensation Committee determined in good faith that the incentive-based compensation received by Defendants for the 2011, 2012, and 2013 fiscal years was "based on the achievement of financial results that were the subject of" the Company's July 2015 Restatement.

87. Hertz identified "the need for the restatement" in November 2014, which was "within 3 years after the date of the first public issuance or filing of the financial results that were subsequently restated," which first occurred on February 27, 2012.

88. Based on Defendants' misconduct as set forth above, Hertz's Compensation Committee "determined in its sole discretion, exercised in good faith, that [Defendants'] gross

negligence . . . or misconduct caused or contributed to the need for the restatement," which determination was final, conclusive, and binding on Defendants, and was reflected in a resolution passed on February 11, 2019.

89. Likewise, Hertz's Compensation Committee determined that "it is in the best interests of the Company and its stockholders for [Defendants] to repay or forfeit ***all***" of their inventive-based pay from fiscal years 2011, 2012, and 2013. [Emphasis added.]

90. On February 13, 2019 counsel for Hertz contacted counsel for each of the Defendants, informing them of the Compensation Committees' decision and seeking the prompt return of their incentive-based compensation from fiscal years 2011, 2012, and 2013.

91. Defendants, through their counsel, refused to comply with their obligations under the 2010 ClawBack Policy.

92. Accordingly, Defendants have materially breached their obligations under the 2010 ClawBack Policy, and their various incentive compensation agreements, by failing to remit their incentive-based compensation from fiscal years 2011, 2012, and 2013.

93. As a result of such breaches, Hertz has been damaged, at a minimum, in the amount of demanded monies they have wrongfully refused to return.

COUNT II

BREACH OF CONTRACT: Enforcement of the 2010 ClawBack Policy to recover incentive-based compensation in Douglas' Golden Parachute (against Defendant Douglas)

94. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

95. Douglas was party to a valid, enforceable contract entered into with Hertz upon Douglas' anticipated termination from Hertz, namely, Douglas' Separation Agreement.

96. Hertz has performed all of the material conditions, covenants, and promises required to be performed in accordance with the terms and conditions of Douglas' Separation Agreement.

97. As a part of Douglas' Separation Agreement, Douglas received certain incentive-based compensation as a part of her Golden Parachute.

98. Hertz's Compensation Committee determined in its sole discretion, exercised in good faith, that the incentive-based compensation received by Douglas as part of her Golden Parachute was "based on the achievement of financial results that were the subject of" the Company's July 2015 Restatement of its fiscal year 2011, 2012, and 2013 financials.

99. Hertz identified "the need for the restatement" in November 2014 "within 3 years after the date of the first public issuance or filing of the financial results that were subsequently restated," which first occurred on February 27, 2012.

100. Based on her misconduct and gross negligence as set forth above, Hertz's Compensation Committee "determined in its sole discretion, exercised in good faith, that [Douglas'] gross negligence . . . or misconduct caused or contributed to the need for the restatement," which determination was final, conclusive and binding on Douglas and reflected in a resolution passed on February 11, 2019.

101. The ClawBack demand letter of February 13, 2019, described above, includes the incentive-based compensation paid prior to February 20, 2014.

102. Accordingly, Douglas has also materially breached her obligations under the 2010 ClawBack Policy by failing to remit her incentive-based compensation received through her Separation Agreement's Golden Parachute.

103. As a result of such breach, Hertz has been damaged, at a minimum, in the amount of the demanded Golden Parachute monies Douglas has wrongfully refused to return.

COUNT III

BREACH OF CONTRACT: Enforcement of 2014 ClawBack Policy to recover incentive-based compensation in Defendants' Golden Parachutes (against all Defendants)

104. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

105. As a part of Defendants' Separation Agreements, Defendants received certain incentive-based compensation as a part of their Golden Parachutes, which was paid on or after February 20, 2014.

106. Hertz's Compensation Committee determined in its sole discretion, exercised in good faith, that certain of the incentive-based compensation received by Defendants through the Golden Parachutes in their Separation Agreements were "based on the achievement of financial results that were the subject of" the Company's July 2015 Restatement.

107. Hertz identified "the need for the restatement" in November 2014 "within 3 years after the date of the first public issuance or filing of the financial results that were subsequently restated," which first occurred on February 27, 2012.

108. Based on Defendants' misconduct and gross negligence as set forth above, and on the ClawBack Policy as amended and restated in 2014, which also applied to Defendants, Hertz's Compensation Committee "determined in its sole discretion, exercised in good faith, that [Defendants'] gross negligence . . . or willful misconduct caused or contributed to the need for the restatement," which determination was final, conclusive, and binding on Defendants and reflected in a resolution passed on February 11, 2019.

109. The ClawBack demand letters of February 13, 2019, described above, include the incentive-based compensation paid subject to the amended and restated ClawBack Policy in effect in 2014.

110. Accordingly, Defendants have materially breached their obligations under the 2010 ClawBack Policy, by failing to remit their incentive-based compensation as a part of their Golden Parachutes, which was paid on or after February 20, 2014.

111. As a result of such breaches, Hertz has been damaged, at a minimum, in the amount of demanded monies they have wrongfully refused to return.

COUNT IV

BREACH OF CONTRACT: Breach of the Standards of Business Conduct (against all Defendants)

112. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

113. The Standards constitutes an enforceable contract with each of Defendants.

114. Hertz has performed all of the material conditions, covenants, and promises to be performed in accordance with the terms and conditions of the Standards.

115. Each Defendant's gross negligence and misconduct, and failure to disclose the gross negligence and misconduct of the other aforementioned key senior executives, during and for the Restatement Period, constitutes breaches of the Standards.

116. Hertz has suffered damages in excess of $200 million as a proximate result of Defendants' breaches of the Standards, consisting of, *inter alia*, increased financial and other costs and burdens resulting from the required Restatement and the various lawsuits and investigations that predictably followed, as well as the predictable cost to Hertz of remedying the continuing impact of those breaches, including increased costs of financing and capital.

117. Such damages were a direct, natural and otherwise foreseeable consequence of Defendants' breaches, and they were especially foreseeable and predictable given the knowledge and status of Frissora, Douglas and Zimmerman, each being a sophisticated executive managing the Company as, respectively, C.E.O., C.F.O. and General Counsel. As top managers of the Company, each of them was generally well aware, *inter alia*, that a restatement of financial statements by such a public entity would be an expensive and otherwise burdensome endeavor which would not only require the expenditure of costly accounting/auditing firm fees, but also attract the attention of governmental authorities and class-action lawyers, and result in increased costs of financing and capital.

COUNT V

BREACH OF CONTRACT: Breaches of Separation Agreement Representations (against Defendants Frissora and Zimmerman)

118. Plaintiffs repeat and reallege the allegations set forth above as though fully set forth herein.

119. Frissora and Zimmerman each entered into a valid, enforceable contract with Hertz, namely, each individual's Separation Agreement.

120. Each Separation Agreement contained certain representations, which were explicitly incorporated as terms of that Separation Agreement.

121. The terms of Frissora's Separation Agreement are governed by Florida law. The terms of Zimmerman's Separation Agreement are governed by Delaware law.

122. Hertz has performed all of the material conditions, covenants, and promises to be performed in accordance with the terms and conditions of the Separation Agreements.

123. Frissora and Zimmerman represented in their respective Separation Agreements

that they had not engaged in "willful gross neglect" or "willful gross misconduct."

124. Frissora and Zimmerman further represented in those agreements that they had not "facilitated … and ha[ve] no knowledge of, any financial or accounting improprieties or irregularities" within Hertz.

125. Frissora and Zimmerman also therein "acknowledge[d] and agree[d]" that Hertz had entered into their Separation Agreements "in reliance on the[se] representations," which were explicitly incorporated as terms of the Separation Agreements.

126. As evidenced by their misconduct described above, Frissora's and Zimmerman's representations were false because they did engage in "willful gross neglect" and/or "willful gross misconduct" with respect to their employment duties with Hertz, which resulted in material economic harm to Hertz, and also because they knew of and/or "facilitated . . . financial or accounting improprieties," including but not limited to those identified in the Restatement.

127. As evidenced by their misconduct described above, Frissora's and Zimmerman's representations were false, as they engaged in "willful gross neglect" and/or "willful gross misconduct" with respect to their employment duties with Hertz, and "facilitated . . . financial or accounting improprieties," including but not limited to those identified in the Restatement, both of which resulted in material economic harm to Hertz.

128. Accordingly, as a result of their misrepresentations made in those contracts, Frissora and Zimmerman have materially breached their Separation Agreements.

129. Hertz has suffered damages as a proximate result of Frissora and Zimmerman's breaches of their Separation Agreements, including, without limitation, the monies paid to them pursuant to their Separation Agreements (which would not have been paid but for Hertz's

reliance on the misrepresentations they made in their respective Separation Agreements), and the time-value-of-money losses resulting from those payments.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment in favor of Plaintiffs and against Defendants, as follows:

A. Awarding compensatory damages to Plaintiffs, jointly and severally, in an amount to be proven at trial, including amounts equal to Defendants' ill-gotten incentive pay and the investigation and remediation costs borne by Plaintiffs as a result of Defendants' wrongful conduct, including pre- and post-judgment interest;

B. Awarding restitution and disgorgement of Defendants' ill-gotten incentive pay and other profits;

C. Declaring that Defendants are not entitled to indemnification by Plaintiffs for any attorney's fees, costs, and/or any other liability incurred as a result of this litigation;

D. Awarding reasonable attorneys' fees and costs of the suit incurred herein; *and*

E. Such other and further relief, whether in law or at equity, as this Court deems just and proper.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of all issues properly triable thereby.

Dated: July 11, 2019

Respectfully submitted,

GORDON & REES LLP

By: *s/Douglas E. Motzenbecker*

Douglas E. Motzenbecker
18 Columbia Turnpike - Suite 220
Florham Park, New Jersey 07932
973-549-2500 (main)
973-549-2514 (direct)
862-432-2678 (mobile)
973-377-1911 (fax)
dmotzenbecker@grsm.com

Herbert Beigel
Law Offices of Herbert Beigel
5641 N. Chieftan Trail
Tucson, Arizona 85750
520-825-1995
520-869-5836 (mobile)
520-844-6215 (fax)
hbeigel@me.com
Admitted pro hac vice

Robert Viducich
Law Office of Robert R. Viducich
40 Wall Street, 28th Floor
New York, New York 10005
Tel: (212) 400-7135
rviducich@rrvlaw.com
Admitted pro hac vice

Attorneys for Plaintiffs

EXHIBIT NO. 1

Table of Contents

HERTZ GLOBAL HOLDINGS, INC. AND SUBSIDIARIES

EXPLANATORY NOTE

This Annual Report on Form 10-K for the year ended December 31, 2014 includes consolidated financial statements for the years ended December 31, 2012, 2013 and 2014. The consolidated financial statements for the years ended December 31, 2012 and 2013 and selected financial data for the years ended December 31, 2011 (unaudited), 2012, and 2013 are restated.

During the preparation of our Form 10-Q for the first quarter of 2014, misstatements were identified in our previous financial statements relating to the capitalization and timing of depreciation for certain non-fleet assets, allowances for doubtful accounts in Brazil, as well as other items. These misstatements, in combination with misstatements previously identified in the revision included in our 2013 Form 10-K/A related to vehicle vendor allowances for marketing and misstatements related to the Brazil operations, which is further described in Note 2, Restatement, to the Notes to our consolidated financial statements under the caption Item 8, Financial Statements and Supplementary Data ("Note 2 - Restatement") resulted in the Audit Committee of our Board of Directors (the “Audit Committee” and the “Board”), in consultation with our management, concluding on June 3, 2014 that our financial statements for 2011 should no longer be relied upon and would require restatement.

In light of the above, in June 2014, the Audit Committee directed that two complementary processes be undertaken. First, the Audit Committee directed management to conduct a thorough review of our financial records for fiscal years 2011, 2012, and 2013 to determine whether further adjustments were necessary. This review, which was conducted with the assistance of outside consultants, identified additional misstatements, including misstatements related to:

- capitalization and timing of depreciation for non-fleet capital and information technology expenditures;
- accruals for uninvoiced non-fleet vendor obligations;
- accrual for salvage vehicles;
- the amortization period associated with vehicle registration and license fees;
- reserve estimates associated with allowances for uncollectible amounts receivable for renter obligations related to damaged vehicles;
- reserve estimates associated with allowances for doubtful accounts, including credit memos;
- reserve estimates associated with probable credit card charge backs;
- accruals for customer rewards programs;
- accrued unbilled revenue;
- reserve estimates associated with allowances for doubtful accounts for the Brazil operations;
- accruals for travel vouchers associated with the Brazil operations;
- Brazil operations litigation reserves;
- other assets and intercompany accounts for the Brazil operations;
- accruals for restoration obligations at the end of facility leases; and
- disclosure of gross equipment and accumulated depreciation balances associated with the capitalization of refurbishment costs.

Table of Contents

On November 10, 2014, the Audit Committee, in consultation with our management, concluded that additional proposed adjustments arising out of the review were material to our 2012 and 2013 financial statements and that, as a result, our 2012 and 2013 financial statements also would require restatement. Those restated financial statements are included in Item 8 of this Annual Report on Form 10-K. Throughout this Annual Report, the misstatements resulting in the restatement of the Company's financial statements are referred to as "restatement matters".

The second process, which we commenced in June 2014, involved an internal investigation of certain matters related to the accounting during prior periods. The investigation was undertaken by outside counsel, along with independent counsel for the Audit Committee. Counsel received assistance from outside consultants and new senior accounting and compliance personnel. The internal investigation is complete, although our outside counsel and the independent counsel to the Audit Committee continue to provide forensic and investigative support in connection with certain proceedings discussed in Item 3, "Legal Proceedings" and in Item 8, Note 14, "Contingencies and Off-Balance Sheet Commitments" to the consolidated financial statements in this Annual Report on Form 10-K involving our restatements and related accounting for prior periods.

Based on the internal investigation, our review of our financial records, and other work completed by our management, the Audit Committee has concluded that there were four categories of material weaknesses in our internal control over financial reporting that contributed to the material misstatements in the 2011, 2012 and 2013 consolidated financial statements. These four categories of material weaknesses as of December 31, 2014 are described below. For further information regarding management's assessment of internal control over financial reporting, please see Item 9A, "Controls and Procedures," in this Annual Report on Form 10-K.

Control Environment

As of December 31, 2014, we did not maintain an effective control environment primarily attributable to the following identified material weaknesses:

- Our investigation found that an inconsistent and sometimes inappropriate tone at the top was present under the then existing senior management that did not in certain instances result in adherence to accounting principles generally accepted in the United States of America ("GAAP") and Company accounting policies and procedures. In particular, our former Chief Executive Officer's management style and temperament created a pressurized operating environment at the Company, where challenging targets were set and achieving those targets was a key performance expectation. There was in certain instances an inappropriate emphasis on meeting internal budgets, business plans, and current estimates. Our former Chief Executive Officer further encouraged employees to focus on potential business risks and opportunities, and on potential financial or operating performance gaps, as well as ways of ameliorating potential risks or gaps, including through accounting reviews. This resulted in an environment which in some instances may have led to inappropriate accounting decisions and the failure to disclose information critical to an effective review of transactions and accounting entries, such as certain changes in accounting methodologies, to the appropriate finance and accounting personnel or our Board, Audit Committee, or independent registered public accounting firm.

- We did not have a sufficient complement of personnel with an appropriate level of knowledge, experience, and training commensurate with our financial reporting requirements to ensure proper selection and application of GAAP in certain circumstances.

- We did not establish clear reporting structures, reporting lines, and decisional authority responsibilities in the organization.

- We did not design effective controls over the non-fleet procurement process, which was exacerbated by the lack of training of field personnel as part of our Oracle enterprise resource planning ("ERP") system implementation during 2013.

These material weaknesses in the control environment resulted in certain instances of inappropriate accounting decisions and inappropriate changes in accounting methodology and contributed to the following additional material weaknesses:

Table of Contents

- We did not design and maintain effective controls over certain accounting estimates. Specifically, we did not design and maintain controls over the effective review of the models, assumptions, and data used in developing estimates or changes made to assumptions and data, related to information technology expenditures; reserve estimates associated with allowances for uncollectible amounts receivable for renter obligations related to damaged vehicles; and accrued unbilled revenue.

- We did not design and maintain effective controls over the review, approval, and documentation related to journal entries.

- We did not design and maintain effective controls over changes to our policies and procedures over GAAP, as well as the review, approval, and documentation related to the application of GAAP.

Risk Assessment

We did not effectively design controls in response to the risks of material misstatement. This material weakness contributed to the following additional material weaknesses:

- We did not design effective controls over certain business processes including our period-end financial reporting process. This includes the identification and execution of controls over the preparation, analysis, and review of significant account reconciliations and closing adjustments required to assess the appropriateness of certain account balances at period end.

Information and Communication

As of December 31, 2014, we did not maintain effective controls over information and communications. Specifically, we did not have an adequate process for internally communicating information between the accounting department and other operating departments necessary to support the proper functioning of internal controls. This material weakness led to misstatements in the capitalization and timing of depreciation of non-fleet capital.

Monitoring

We did not design and maintain effective monitoring controls related to the design and operational effectiveness of our internal controls. Specifically, we did not maintain personnel and systems within the internal audit function that were sufficient to ensure the adequate monitoring of control activities. This control deficiency resulted in some instances of the internal audit function’s failure to identify or sufficiently follow through on the analysis of certain inappropriate accounting decisions and changes in accounting methodology.

Our incorrect accounting was caused by the foregoing control deficiencies, along with a complex mix of structural and environmental factors. One of those factors was the tone set and pressures imposed by our former Chief Executive Officer, which were inappropriate in certain instances, and may have been a factor influencing one or more employees to record an accounting entry now determined to be improper. Other factors affecting the overall historic accounting environment and employees included the distraction caused by the multiple, conflicting business initiatives; challenges related to managing complex, inefficient legacy systems; the lack of a sufficient complement of personnel with an appropriate level of knowledge, experience, and training with GAAP; unclear reporting structures, reporting lines, and decisional authority in the organization; and other matters. Taken together, these factors fostered a control environment and other control deficiencies that in some instances enabled inappropriate accounting.

One or more of the foregoing control deficiencies contributed to the restatement of our financial statements for the years 2012 and 2013 and each of the quarters of 2013, including the misstatements of direct operating expenses, accounts payable, accrued liabilities, allowance for doubtful accounts, prepaid expenses and other assets,and non-fleet property and equipment and the related accumulated depreciation. Additionally, the foregoing control deficiencies could result in material misstatements of the consolidated financial statements that would not be prevented or detected. Accordingly, our management has determined that these control deficiencies constitute material weaknesses.

Management has assessed our internal control over financial reporting at December 31, 2014 and identified the material weaknesses described above and, accordingly, has concluded that our internal control over financial reporting was not effective at December 31, 2014. In addition, our Chief Executive Officer and Chief Financial Officer have evaluated

Table of Contents

the findings and conclusions of the Audit Committee's investigation, as well as the review of our financial records, and based on this evaluation have concluded that our disclosure controls and procedures are not effective at December 31, 2014, because of the existence of the four categories of material weaknesses described above.

Our independent auditors, PricewaterhouseCoopers LLP, have audited management's assessment of internal control over financial reporting at December 31, 2014 and in their opinion concluded that we did not maintain, in all material respects, effective internal control over financial reporting as of December 31, 2014, based on criteria established in *Internal Control - Integrated Framework* (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) because the above described material weaknesses in our internal control over financial reporting existed at December 31, 2014.

We have taken, and continue to take, action to remediate the identified material weaknesses. For example, in the last two years, the Company searched for and hired a new Chief Executive Officer, Chief Financial Officer, Chief Accounting Officer, General Counsel, and over twenty highly qualified vice president- or director-level accounting employees from outside the Company, and changed and enhanced leadership in the business units associated with the restatement matters. Moreover, in response to the restatement matters and other matters identified as restatement adjustments, under the direction of the Audit Committee, commencing with the 2013 year-end close process, our senior management has directed that we dedicate additional resources and take further steps to strengthen control processes and procedures in order to identify and rectify past accounting misstatements and prevent a recurrence of the circumstances that resulted in the need to restate prior period financial statements.

We have, and continue to, identify and implement actions to improve the effectiveness of our internal control over financial reporting and disclosure controls and procedures, including plans to enhance our resources and training with respect to financial reporting and disclosure responsibilities, and to review such actions with the Audit Committee and our independent auditors. For more information on the status of our remediation efforts, please see Item 9A, "Controls and Procedures," in this Annual Report on Form 10-K.

As a result of the foregoing, we have restated our financial statements for the years ended December 31, 2012 and 2013, including the 2013 interim periods. Moreover, because we have failed to file Quarterly Reports on Form 10-Q for the quarters in the year ended December 31, 2014, we include in this Annual Report on Form 10-K the financial data and discussion for the three quarters of 2014 that would typically be disclosed in a Form 10-Q. The restatement also affects periods prior to 2012. The impact of the restatement on such prior periods is reflected as an adjustment to opening retained earnings as of January 1, 2012. In addition, we are including restated unaudited selected financial data for the year ended December 31, 2011.

The restatement of previously issued financial statements reduced our net earnings and diluted earnings per share in the year ended December 31, 2012 by approximately $58 million or $0.13 per share and in the year ended December 31, 2013 by $51 million or $0.11 per share. The cumulative impact of the out of period misstatements for all previously reported periods through December 31, 2013, including amounts associated with the revision previously reported in the 2013 Form 10-K/A, was approximately a $349 million reduction in pre-tax income and $231 million reduction in net income. Excluding the revision included in the 2013 Form 10-K/A of $26 million on a pre-tax basis and $17 million on an after-tax basis, approximately $160 million on a pre-tax basis and $100 million on an after-tax basis is included as a reduction to opening retained earnings as of January 1, 2012.

Note 2, "Restatement," to our consolidated financial statements discloses the nature of the restatement matters and adjustments and shows the impact of the restatement matters on revenues, expenses, income, assets, liabilities, equity, and cash flows from operating activities, investing activities, and financing activities, and the cumulative effects of these adjustments on the consolidated statement of operations, balance sheet, and cash flows for 2012 and 2013. For information on the impact of the restatement on the year 2011, reference is made to Item 6, "Selected Financial Data," in this Annual Report on Form 10-K.

We have not amended, and do not intend to amend, our Annual Reports on Form 10-K or Quarterly Reports on Form 10-Q for periods prior to December 31, 2014. We also do not intend to file Quarterly Reports on Form 10-Q for the quarters in the year ended December 31, 2014. The financial statements and related financial information contained in any of our reports filed prior to this Annual Report on Form 10-K for the year ended December 31, 2014 should no longer be relied upon.

Note 1—Background

Hertz Global Holdings, Inc., or "Hertz Holdings" or the "Company," was incorporated in Delaware in 2005 to serve as the top-level holding company for Hertz Investors, Inc. which wholly owns The Hertz Corporation, or "Hertz," Hertz Holding's primary operating company.

The Company operates its U.S. car rental and International car rental businesses through the Hertz, Dollar, Thrifty and Firefly brands from company-owned, licensee and franchisee locations in North America, Europe, Latin America, Asia, Australia, Africa, the Middle East and New Zealand. In its worldwide equipment rental business, the Company rents equipment in the U.S., Canada, France, Spain, the United Kingdom, China and Saudi Arabia, as well as through its international franchisees. The Company also owns Donlen Corporation, or "Donlen," based in Northbrook, Illinois, which is a leader in providing fleet leasing and management services.

The Company is a successor to corporations that have been engaged in the car and truck rental and leasing business since 1918 and the equipment rental business since 1965. Hertz was incorporated in Delaware in 1967. Ford Motor Company acquired an ownership interest in Hertz in 1987 and in 2001 owned 100% of Hertz through one or more of its subsidiaries.

In December 2005, certain private investment funds, which the Company refers to collectively as the "Sponsors," through Hertz Investors Inc., acquired all of Hertz common stock from Ford Holdings LLC.

In 2006, the Company conducted an initial public offering of Hertz Holdings' common stock and as a result its common stock trades on the New York Stock Exchange ("NYSE") under the symbol "HTZ".

The Sponsors sold substantially all of their common stock between 2006 and 2013.

In May 2013, the Company announced plans to relocate its worldwide headquarters to Estero, Florida from Park Ridge, New Jersey which is expected to be completed by late 2015.

On December 30, 2013, the board of directors of Hertz Holdings declared a dividend of one preferred share purchase right for each outstanding share of Hertz Holdings common stock, to purchase from Hertz Holdings one ten-thousandth of a share of Series A Junior Participating Preferred Stock, par value $0.01 per share, of Hertz Holdings at a price of $115.00 per one ten-thousandth of a share of preferred stock, subject to adjustment as provided in the associated rights agreement. The description and terms of the preferred share purchase rights are set forth in a rights agreement, dated as of December 30, 2013, between Hertz Holdings and Computershare Trust Company, N.A., as rights agent. No preferred shares were issued under the agreement and the preferred share purchase rights expired in accordance with their terms on December 29, 2014.

In March 2014, the Company announced that its Board of Directors approved plans to separate Hertz Holdings into two independent, publicly traded companies. One of the companies will continue to operate the Hertz, Dollar, Thrifty and Firefly car rental businesses as well as Donlen; and the other will operate the Hertz Equipment Rental Corporation, or "HERC." The separation is planned to be in the form of a tax-free spin-off of HERC to Hertz Holdings shareholders, and the Company expects to separate the businesses in a tax-efficient manner.

Note 2—Restatement

Revisions Reported in the 2013 Form 10-K/A

During the fourth quarter of 2013, the Company identified certain out of period misstatements totaling $46 million, of which $35 million ($21 million, net of tax) related to its previously issued consolidated financial statements for the years ended December 31, 2012 and prior. While these misstatements did not, individually or in the aggregate, result in a material misstatement of the Company's previously issued consolidated financial statements, correcting these misstatements in the fourth quarter of 2013 would have been material to that quarter. Accordingly, management revised its previously reported consolidated financial statements in the Form 10-K/A for the year ended December 31, 2013 filed with the SEC on March 20, 2014 ("2013 Form 10-K/A"). These recorded pre-tax adjustments relate to vendor

Table of Contents

incentives (reduced pre-tax income by $2 million in 2012) which had been accounted for as a reduction of marketing expenses instead of reducing the cost of revenue earning equipment, charges related to certain assets and allowances for doubtful accounts in Brazil (reduced pre-tax income by $4 million in 2012), as well as other immaterial misstatements (reduced pre-tax income by $3 million in 2012).

The column in the tables below labeled "As Previously Reported" reflects the revised numbers that include the effects of these out of period misstatements. Certain prior period amounts have been reclassified to conform with current period presentation.

Restatement

As discussed in the *Explanatory Note* to this Annual Report on Form 10-K, this Note 2 to the consolidated financial statements discloses the nature of the restatement matters and adjustments and shows the impact of the restatement matters on revenues, expenses, income, assets, liabilities, equity, and cash flows from operating activities, investing activities, and financing activities, and the cumulative effects of these adjustments on the consolidated statement of operations, balance sheet, and cash flows for 2012 and 2013. In addition, this Note shows the effects of the adjustment to opening retained earnings as of January 1, 2012, which adjustment reflects the impact of the restatement on periods prior to 2012. The cumulative impact of the out of period misstatements for all previously reported periods through December 31, 2013, including amounts associated with the revision previously reported in the 2013 Form 10-K/A, was approximately a $349 million reduction in pre-tax income and $231 million reduction in net income. The cumulative annual impact on 2012 and 2013 was a reduction in pre-tax income and net income of $90 million and $62 million for 2012 and $72 million and $51 million for 2013. Excluding the revision included in the 2013 Form 10-K/A of $26 million on a pre-tax basis and $17 million on an after-tax basis, approximately $160 million on a pre-tax basis and $100 million on an after-tax basis is included as a reduction to opening retained earnings as of January 1, 2012. For information on the impact of the restatement on the year 2011, reference is made to *Item 6 - Selected Financial Data* of this Annual Report on Form 10-K.

Restatement Background

During the preparation of the Company's Form 10-Q for the first quarter of 2014, misstatements were identified in the previous financial statements relating to the capitalization and timing of depreciation for certain non-fleet assets, allowances for doubtful accounts in Brazil, as well as other items. These misstatements, in combination with misstatements previously identified in the revision included in the Company's 2013 Form 10-K/A related to vehicle vendor allowances for marketing and misstatements related to the Brazil operations, resulted in the Audit Committee, in consultation with the Company's management, concluding on June 3, 2014 that the Company's financial statements for 2011 should no longer be relied upon, and would require restatement.

In light of the above, in June 2014, the Audit Committee directed that two complementary processes be undertaken. First, the Audit Committee directed management to conduct a thorough review of the Company's financial records for fiscal years 2011, 2012 and 2013 to determine whether further adjustments were necessary. This review, which was conducted with the assistance of outside consultants, identified additional misstatements, including misstatements related to:

- capitalization and timing of depreciation for non-fleet capital and information technology expenditures;
- accruals for uninvoiced non-fleet vendor obligations;
- accrual for salvage vehicles;
- the amortization period associated with vehicle registration and license fees;
- reserve estimates associated with allowances for uncollectible amounts receivable for renter obligations related to damaged vehicles;
- reserve estimates associated with allowances for doubtful accounts, including credit memos;

Table of Contents

- reserve estimates associated with probable credit card charge backs;
- accruals for customer rewards programs;
- accrued unbilled revenue;
- reserve estimates associated with allowances for doubtful accounts for the Brazil operations;
- accruals for travel vouchers associated with the Brazil operations;
- Brazil operations litigation reserves;
- other assets and intercompany accounts for the Brazil operations;
- accruals for restoration obligations at the end of facility leases; and
- disclosure of gross equipment and accumulated depreciation balances associated with the capitalization of refurbishment costs.

On November 10, 2014, the Audit Committee, in consultation with management, concluded that additional proposed adjustments arising out of the review were material to the Company's 2012 and 2013 financial statements and that, as a result, the 2012 and 2013 financial statements also would require restatement.

The second process, which the Company commenced in June 2014, involved an internal investigation of certain matters related to the accounting during prior periods. The investigation was undertaken by outside counsel, along with independent counsel for the Audit Committee. Counsel received assistance from outside consultants and new senior accounting and compliance personnel. The internal investigation is complete, although the Company's outside counsel and the independent counsel to the Audit Committee continue to provide forensic and investigative support in connection with certain proceedings discussed in Item 3, "Legal Proceedings," in this Annual Report on Form 10-K and in Note 14, "Contingencies and Off-Balance Sheet Commitments" to the consolidated financial statements involving the Company's restatements and related accounting for prior periods.

As part of the Company’s review of its financial records, the Company identified control deficiencies related to the control environment, risk assessment, information and communication, and monitoring. For further information regarding these control deficiencies, please see *Item 9A - Controls and Procedures* in this Annual Report on Form 10-K. The Company’s incorrect accounting was the result of these control deficiencies and the complex mix of structural and environmental factors. The Company’s investigation found that one of these factors was that an inconsistent and sometimes inappropriate tone at the top that was present under the then existing senior management that did not in certain instances result in adherence to GAAP and Company accounting policies and procedures. In particular, the Company’s former Chief Executive Officer’s management style and temperament created a pressurized operating environment at the Company, where challenging targets were set and achieving those targets was a key performance expectation. There was in certain instances an inappropriate emphasis on meeting internal budgets, business plans, and current estimates. The Company’s former Chief Executive Officer further encouraged employees to focus on potential business risks and opportunities, and on potential financial or operating performance gaps, as well as ways of ameliorating potential risks or gaps, including through accounting reviews. This resulted in an environment which in some instances may have led to inappropriate accounting decisions and the failure to disclose information critical to an effective review of transactions and accounting entries, such as certain changes in accounting methodologies, to the appropriate finance and accounting personnel or the Company’s Board, Audit Committee, or independent registered public accounting firm. The tone set and pressures imposed by the former Chief Executive Officer were inappropriate in certain instances and may have been a factor influencing one or more employees to record an accounting entry now determined to be improper. Other factors affecting the overall historic accounting environment and influencing employees included the distraction caused by the multiple, conflicting business initiatives; challenges related to managing complex, inefficient legacy systems; the lack of a sufficient complement of personnel with an appropriate level of knowledge, experience, and training with GAAP; unclear reporting structures, reporting lines, and decisional authority in the organization; and other matters. Taken together, these factors fostered a control environment that in some instances enabled inappropriate accounting to occur.

Table of Contents

Description of Restatement Matters and Restatement Adjustments

Based on the internal investigation, the Company's review of its financial records, and other work completed by its management, the Audit Committee has concluded that there were material misstatements in the 2011, 2012, and 2013 consolidated financial statements.

The restatement of previously issued financial statements reduced pre-tax earnings for the years ended December 31, 2013 and December 31, 2012 by approximately $72 million and $81 million, respectively. Below are tables summarizing the impact of the restatement matters and the effect of the change in accounting principle, as discussed further in Note 7 - "Employee Retirement Benefits," on the previously issued consolidated financial statements for the years ended December 31, 2013 and December 31, 2012. The change in accounting principle increased pre-tax income by $12 million in 2013 and $5 million in 2012.

The individual restatement matters that underlie the restatement adjustments are described below and are reflected and quantified, as applicable, in the footnotes to the below tables. The restatement adjustments also affect periods prior to 2012.

Reserve and Estimates Recognition Restatement Adjustments

(a) Allowance for Doubtful Accounts and Credit Memos (U.S. Car Rental) - The historical methodology employed for doubtful customer accounts and credit memo allowances for the U.S. Car Rental business inappropriately used inaccurate write-off rates for receivables, aggregated receivables with significantly different credit risks for purposes of analysis and used assumptions in setting the reserve for credit memos that were not supported. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The resulting reduction to pre-tax earnings was $1 million in 2013 and $3 million in 2012, respectively. The cumulative pre-tax misstatement was a decrease of $7 million.

(b) Allowance for Doubtful Accounts and Credit Memos (International Car Rental) - The historical methodology employed for doubtful customer accounts and credit memo allowances for the international car rental business inappropriately used inaccurate write-off rates for receivables, aggregated receivables with significantly different credit risks for purposes of analysis and did not include a reserve for credit memos. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The resulting reduction to pre-tax earnings was $3 million in 2013 and $1 million in 2012, respectively. The cumulative pre-tax misstatement was a decrease of $12 million.

(c) Allowance for Doubtful Accounts and Credit Memos (Worldwide Equipment Rental) - The historical methodology employed for doubtful customer accounts and credit memo allowances for the worldwide equipment rental business inappropriately used rates that differed from historical norms, used unsupported assumptions, and contained formulaic errors. In addition, changes to the methodology in 2012 reduced the reserve requirement and slowed the rate of recording account write-offs. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. There was no impact to pre-tax earnings in 2013 and a reduction to pre-tax earnings of $6 million in 2012. The cumulative pre-tax misstatement was a decrease of $8 million.

(d) Subrogation (Damage) Receivables and the Related Allowance for Doubtful Accounts (U.S. Car Rental) - This restatement matter relates to estimated recoveries from third parties responsible for damages to vehicles. The historical methodologies used to estimate the unbilled balances and the allowance accounts inappropriately used assumptions that lacked support, including using write-offs rather than collection history as a key assumption and changed methodologies without any supported basis, as well as contained formulaic errors. In addition, there were instances in which the amount recorded for the allowance was significantly less than the amount calculated based on the methodology in place at the time. The Company has revised the methodology used to calculate subrogation claims to utilize the ratio of claims collected compared to damage expense incurred. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The result was a reduction to pre-tax earnings of $3 million in 2013 and $26 million in 2012. The cumulative pre-tax misstatement was a decrease of $48 million.

(e) Subrogation (Damage) Receivables and the Related Allowance for Doubtful Accounts (International Car Rental) - This restatement matter relates to estimated recoveries from third parties responsible for damages to vehicles. The historical methodologies used to estimate the allowance accounts inappropriately used assumptions that lacked support, including using write-offs rather than collection history as a key assumption, as well as contained formulaic errors. In addition, there were instances in which the amount recorded for the allowance was significantly less than the amount calculated based on the methodology in place at the time. The result was an increase to pre-tax earnings of $3 million in 2013 and a reduction to pre-tax earnings of $3 million in 2012. The cumulative pre-tax misstatement was a decrease of $8 million.

(f) Accrued Salvaged Vehicles (U.S. Car Rental) - This restatement matter relates to the reserve for estimated vehicle damages incurred in the U.S. car rental business but not reported as of period ends. The methodology used to estimate the reserve was changed without appropriate supporting documentation and the most significant, required element of the reserve was eliminated. As part of the restatement process, the Company has reinstated the previous methodology. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. There was no impact to pre-tax earnings in 2013 and a reduction to pre-tax earnings of $5 million in 2012. The cumulative pre-tax misstatement was a decrease of $5 million.

(g) Credit Card Chargebacks (U.S. and International Car Rental) - This restatement matter relates to reserves established to accrue for future credit card chargebacks pertaining to completed revenue transactions with customers and for chargebacks received from credit card providers. The reserves were understated in 2011, 2012 and 2013 for a variety of reasons. These reasons included (1) the Company inappropriately changed the methodology for computing reserves established to accrue for future chargebacks in 2013 and (2) the Company erroneously excluded chargebacks received from credit card providers from the balances used to calculate the allowance for doubtful accounts. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The resulting reduction to pre-tax earnings was $3 million for 2013 and $1 million for 2012. The cumulative pre-tax misstatement was a decrease of $4 million.

Accounting for Fleet Restatement Adjustments

(h) Rental Equipment Refurbishment (Worldwide Equipment Rental) - This restatement matter relates to refurbishment designed to extend the useful life of rental equipment used in the worldwide equipment rental business. At the time of refurbishment, the Company improperly reduced the cost basis of rental equipment that was subject to useful life extension. The reduction was effected by reversing accumulated depreciation on refurbished equipment as an offset to original cost. These adjustments to the balance sheet had no impact on pre-tax earnings in 2013 and 2012 but reduced cost and accumulated depreciation of Revenue Earning Equipment cumulatively by $31 million in 2013 and $16 million in 2012. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter.

Fixed Assets Restatement Adjustments

(i) Fixed Assets and Construction in Progress and Capitalized Software (U.S. Car Rental, Worldwide Equipment Rental and Corporate) - This restatement matter relates to accounting for non-fleet fixed assets (e.g., leasehold improvements and property improvements) and capitalized software expenditures. The adjustments associated with non-fleet fixed assets and capitalized software primarily relate to the Company's identification of (1) expenditures that were capitalized rather than expensed, (2) the failure to write off abandoned projects included in construction in progress on a timely basis, (3) the failure to write off assets no longer in service, and (4) depreciation adjustments associated with assets that should have been placed in service at a date that preceded the placed-in-service date, including assets that had not yet been transferred from construction in progress to in service. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The resulting reduction to pre-tax earnings was $19 million for 2013 and $8 million for 2012. The cumulative pre-tax misstatement was a decrease of $56 million.

Brazil Restatement Adjustment

(j) Brazil Adjustments (International Car Rental) - This restatement matter relates to the Brazilian operations of the International Car Rental business. Allowances for uncollectible balances were calculated using inappropriate methodologies, and certain assets, reserves for legal expenses and litigation, and intercompany account balances were not properly supported and consequently were written off. Inappropriate tone at the top, among other factors,

Table of Contents

may have contributed to this restatement matter. The resulting increase to pre-tax earnings was $1 million in 2013 and there was no impact in 2012. The adjustments related to Brazil impacting periods prior to 2012 have been reflected in the opening adjustment to retained earnings. The cumulative pre-tax misstatement (including the correction recorded in the Form 10-K/A in 2013 of $14 million) was a decrease in pre-tax income of $54 million.

Reclassifications

(k) Cash reclassifications (All Segments) - The Company reclassified negative cash balances representing outstanding checks to accounts payable at period end despite, in some cases, the existence of bank agreements with legal right of offset against cash balances with the same banks. The resulting correction had no impact to pre-tax earnings for 2013 and 2012 but reduced cash balances and accounts payable by $19 million for 2013 and $9 million for 2012.

(l) Internal Use Software reclassification (All Segments) - The Company reclassified all internal use software asset balances, including accumulated depreciation on these assets, to intangible assets. Previously, these assets were reported in property and equipment. The resulting correction had no impact to pre-tax earnings for 2013 and 2012, but reduced gross property and equipment and accumulated depreciation balances and increased intangible asset and accumulated amortization balances by $197 million for 2013 and $151 million for 2012, on a net basis.

Other Restatement Adjustments

(m) Accrued Unbilled Accounts Receivable (U.S. Car Rental) - The Company over accrued revenue on open rental agreements related to the U.S. Car Rental business at period end because its calculation methodology was based on too limited a sample of open rental agreements. Also, vehicles that had been returned before period end, but that had not been processed as returned until after the look back period used in the calculation methodology, were treated as rented to customers at period end. Further, the rates utilized for certain types of transactions in the computation for the unbilled receivables were erroneous. The resulting reduction to pre-tax earnings was $1 million in 2013 and $6 million in 2012, respectively. The cumulative pre-tax misstatement was a decrease of $13 million.

(n) Vehicle License Fees (U.S. Car Rental) - This restatement matter relates to vehicle registration cost amortization in the U.S. Car Rental business. The Company inappropriately changed its amortization period for vehicle registration cost to the life of the vehicle instead of the life of the registration or license. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The resulting reduction to pre-tax earnings was $13 million in 2013 and cumulatively.

(o) Hertz #1 Gold Points Liability (U.S. Car Rental) - The Company has made adjustments to the reserves established for the liability associated with the redemption of points earned by customers enrolled in the Hertz Gold Plus Rewards Program. The Company determined that these reserves were understated in 2011, 2012, and 2013 for a variety of reasons. These reasons included: (1) a miscalculation of the rate at which customers would redeem points, (2) the use of incorrect income statement accounts in calculating the incremental costs associated with customers' use of points, (3) the failure to reconcile the account from 2011 through 2013 and (4) a systems issue that prevented certain customer points from expiring as they should have when the Company modified its Gold Points expiration policy in 2011. The resulting reduction to pre-tax earnings was $1 million for 2013 and $3 million for 2012. The cumulative pre-tax misstatement was a decrease of $9 million.

(p) Accounts payable (All Segments) - The accruals for expenses paid utilizing credit cards did not include amounts which have been incurred and are in the process of being billed to the Company. In addition, the manual process and lack of automated interface controls with legacy systems and the failure to complete sufficient personnel training on the accounts payable Oracle ERP system module, among other factors, resulted in erroneous accruals including purchase orders, marketing and consulting spending. The resulting reduction to pre-tax earnings was $19 million for 2013 and $2 million for 2012. The cumulative pre-tax misstatement was a decrease of $33 million.

(q) Asset Retirement Obligation (All Segments) - This restatement matter relates to asset restoration costs associated with contractual obligations included in lease agreements. The Company failed to account for global contractual restoration costs on certain of its leased facilities, including its European headquarters at Uxbridge, United Kingdom. Inappropriate tone at the top, among other factors, may have contributed to this restatement matter. The resulting

Table of Contents

reduction to pre-tax earnings was $3 million in 2013 and $2 million in 2012, respectively. The cumulative pre-tax misstatement was a decrease of $5 million.

(r) Other Restatement Adjustments (All Segments) - There are certain other restatement matters not otherwise described in items (a) through (q) of this Note the adjustments of which are individually insignificant but, in aggregate with all the restatement matters, are significant to the financial statements. The cumulative pre-tax misstatement was a decrease of $53 million.

(s) Taxes on income (loss) - The tax effect of the out of period misstatements and the change in accounting principle through December 31, 2013 was approximately $100 million. The tax effect of the misstatements resulted in a reduction to income tax expense of $21 million and $24 million for 2013 and 2012, respectively. In connection with the restatement, the Company recorded an entry, that impacted the Company's tax disclosures, of $141 million in 2012 and $131 million in 2013 to reclassify deferred tax assets and liabilities associated with depreciation of intangible assets and net operating loss carryforwards.

(t) Change in Accounting Principle - In 2014, the Company changed its method of calculating the market-related value of pension assets for purposes of determining the expected return on plan assets and accounting for asset gains and losses. The change in accounting principle was applied retroactively to December 2005, a portion of which is a correction of an error as follows:

	Year Ended December 31,		
(In millions)	**2005 to 2011**	**2012**	**2013**
Correction of an error	$ 3	$ —	$ —
Change in accounting principle	(6)	5	12
Total increase (decrease) in pre-tax income	$ (3)	$ 5	$ 12

See Note 7, "Employee Retirement Benefits" for more details.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Restatement of Previously Issued Financial Statements

As described in additional detail in the *Explanatory Note* to this Annual Report on Form 10-K, in June 2014, we commenced an internal investigation of certain matters related to the accounting during prior periods. The investigation was undertaken by outside counsel, along with independent counsel for the Audit Committee. Counsel received assistance from outside consultants and new senior accounting and compliance personnel. The internal investigation is complete, although our outside counsel and the independent counsel to the Audit Committee continue to provide forensic and investigative support in connection with certain proceedings discussed in Item 3, "Legal Proceedings" and in Item 8, Note 14, “Contingencies and Off-Balance Sheet Commitments” to the consolidated financial statements in this Annual Report on Form 10-K involving our restatements and related accounting for prior periods.

Based on the internal investigation, our review of our financial records, and other work completed by our management, the Audit Committee has concluded that there were material misstatements in the 2011, 2012 and 2013 consolidated financial statements. Accordingly, our Board and management concluded that our consolidated financial statements for these periods should no longer be relied upon and required restatement. The restated consolidated financial statements for 2012 and 2013 are provided in this Annual Report on Form 10-K. The unaudited restated selected data for 2011 is included in Item 6, “Selected Financial Data” in this Annual Report on Form 10-K.

Evaluation of Disclosure Controls and Procedures

Our senior management has evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined under Exchange Act Rules 13a-15(e) and 15d-15(e)) as of the end of the period covered by this Annual Report on Form 10-K. Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that as of December 31, 2014, due to the identification of material weaknesses in our internal control over financial reporting, as further described below, our disclosure controls and procedures were not effective to provide reasonable assurance that the information required to be disclosed by us in the reports that we file or submit under the Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is accumulated and communicated to management as appropriate to allow timely decisions regarding required disclosure.

Management’s Report on Internal Control over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f) and 15d-15(f).

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Management, including our new Chief Executive Officer and our Chief Financial Officer, assessed the effectiveness of our internal control over financial reporting as of December 31, 2014. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) in *Internal Control - Integrated Framework (2013)*. Based on this assessment, management has concluded that we did not maintain effective internal control over financial reporting as of December 31, 2014 due to the fact that there are material weaknesses in our internal control over financial reporting as discussed below.

Control Environment

The control environment, which is the responsibility of senior management, helps set the tone of the organization (including a commitment towards openness, honesty, integrity, and ethical behavior), influences the control consciousness of its officers and employees, and is an important component affecting how the organization performs financial analysis, accounting, and financial reporting. A proper organizational tone can be promoted through a variety of means, such as policies and codes of ethics, a commitment to hiring competent employees, the manner and content of oral and written communications, and structures that promote and reward openness, strong internal controls, effective governance, and ethical behavior.

As of December 31, 2014, we did not maintain an effective control environment primarily attributable to the following identified material weaknesses:

- Our investigation found that an inconsistent and sometimes inappropriate tone at the top was present under the then existing senior management that did not in certain instances result in adherence to accounting principles generally accepted in the United States of America ("GAAP") and Company accounting policies and procedures. In particular, our former Chief Executive Officer's management style and temperament created a pressurized operating environment at the Company, where challenging targets were set and achieving those targets was a key performance expectation. There was in certain instances an inappropriate emphasis on meeting internal budgets, business plans, and current estimates. Our former Chief Executive Officer further encouraged employees to focus on potential business risks and opportunities, and on potential financial or operating performance gaps, as well as ways of ameliorating potential risks or gaps, including through accounting reviews. This resulted in an environment which in some instances may have led to inappropriate accounting decisions and the failure to disclose information critical to an effective review of transactions and accounting entries, such as certain changes in accounting methodologies, to the appropriate finance and accounting personnel or our Board, Audit Committee, or independent registered public accounting firm.

- We did not have a sufficient complement of personnel with an appropriate level of knowledge, experience, and training commensurate with our financial reporting requirements to ensure proper selection and application of GAAP in certain circumstances.

- We did not establish clear reporting structures, reporting lines, and decisional authority responsibilities in the organization.

- We did not design effective controls over the non-fleet procurement process, which was exacerbated by the lack of training of field personnel as part of our Oracle ERP system implementation during 2013.

These material weaknesses in the control environment resulted in certain instances of inappropriate accounting decisions and inappropriate changes in accounting methodology and contributed to the following additional material weaknesses:

- We did not design and maintain effective controls over certain accounting estimates. Specifically, we did not design and maintain controls over the effective review of the models, assumptions, and data used in developing estimates or changes made to assumptions and data, related to information technology expenditures; reserve estimates associated with allowances for uncollectible amounts receivable for renter obligations related to damaged vehicles; and accrued unbilled revenue.

- We did not design and maintain effective controls over the review, approval, and documentation related to journal entries.

- We did not design and maintain effective controls over changes to our policies and procedures over GAAP, as well as the review, approval, and documentation related to the application of GAAP.

Table of Contents

Risk Assessment

We did not effectively design controls in response to the risks of material misstatement. This material weakness contributed to the following additional material weaknesses:

- We did not design effective controls over certain business processes including our period-end financial reporting process. This includes the identification and execution of controls over the preparation, analysis, and review of significant account reconciliations and closing adjustments required to assess the appropriateness of certain account balances at period end.

Information and Communication

As of December 31, 2014, we did not maintain effective controls over information and communications. Specifically, we did not have an adequate process for internally communicating information between the accounting department and other operating departments necessary to support the proper functioning of internal controls. This material weakness led to misstatements in the capitalization and timing of depreciation of non-fleet capital.

Monitoring

We did not design and maintain effective monitoring controls related to the design and operational effectiveness of our internal controls. Specifically, we did not maintain personnel and systems within the internal audit function that were sufficient to ensure the adequate monitoring of control activities. This control deficiency resulted in some instances of the internal audit function's failure to identify or sufficiently follow through on the analysis of certain inappropriate accounting decisions and changes in accounting methodology.

One or more of the foregoing control deficiencies contributed to the restatement of our financial statements for the years 2012 and 2013 and each of the quarters of 2013, including the misstatements of direct operating expenses, accounts payable, accrued liabilities, allowance for doubtful accounts, prepaid expenses and other assets,and non-fleet property and equipment and the related accumulated depreciation. Additionally, the foregoing control deficiencies could result in material misstatements of the consolidated financial statements that would not be prevented or detected. Accordingly, our management has determined that these control deficiencies constitute material weaknesses.

The effectiveness of our internal control over financial reporting as of December 31, 2014 has been audited by PricewaterhouseCoopers LLP, an independent registered public accounting firm, as stated in their report, which appears in this Annual Report on Form 10-K.

Other Considerations Impacting our Historical Accounting

Our incorrect accounting was caused by the foregoing control deficiencies along with a complex mix of structural and environmental factors. One of those factors was the tone set and pressures imposed by our former Chief Executive Officer, which were inappropriate in certain instances, and may have been a factor influencing one or more employees to record an accounting entry now determined to be improper. Other factors affecting the overall historic accounting environment and employees included the distraction caused by the multiple, conflicting business initiatives; challenges related to managing complex, inefficient legacy systems; the lack of a sufficient complement of personnel with an appropriate level of knowledge, experience, and training with GAAP; unclear reporting structures, reporting lines, and decisional authority in the organization; and other matters. Taken together, these factors fostered a control environment and other control deficiencies that in some instances enabled inappropriate accounting.

Remediation Plan and Status

We have, and continue to, identify and implement actions to improve the effectiveness of our internal control over financial reporting and disclosure controls and procedures, including plans to enhance our resources and training with respect to financial reporting and disclosure responsibilities and to review such actions with the Audit Committee. Leading this process is our Senior Executive Vice President and Chief Financial Officer, who was hired in December 2013 and is being assisted by our new Chief Accounting Officer, who was hired in May 2014.

Table of Contents

During 2014 and 2015, we have hired personnel with the appropriate experience, certification, education, and training for all of the key positions in the financial reporting and accounting function and in some cases have created new positions. Consequently, the employees involved in the accounting and financial reporting functions in which misstatements were identified are no longer involved in the accounting or financial reporting functions. In addition, we have taken, or will take, appropriate remedial actions with respect to certain employees, including termination, reassignments, reprimands, increased supervision, training, and imposition of financial penalties in the form of compensation adjustments.

In addition, we have taken, and continue to take, the actions described below to remediate the identified material weaknesses. As we continue to evaluate and work to improve our internal controls over financial reporting, our senior management may determine to take additional measures to address control deficiencies or determine to modify the remediation efforts described in this section. Until the remediation efforts discussed in this section, including any additional remediation efforts that our senior management identifies as necessary, are completed, the material weaknesses described above will continue to exist.

Control Environment

Our Board has directed senior management to ensure that a proper, consistent tone is communicated throughout the organization, which emphasizes the expectation that previously existing deficiencies will be rectified through implementation of processes and controls to ensure strict compliance with GAAP and regulatory requirements. We also have taken steps to effect a proper tone through changes in our personnel and policies.

On September 7, 2014 our former Chairman and Chief Executive Officer resigned his position. On November 20, 2014, a new President and Chief Executive Officer was named from outside the Company following a national search led by a special committee of the Board, with the assistance of an executive search consultant.

Our new President and Chief Executive Officer is one of four new members of our Board. The three other new directors joined our Board pursuant to the nomination and standstill agreement dated September 15, 2014 between the Company and the Icahn Group, which is included as Exhibit 99.1 to our Form 8-K filed on September 16, 2014.

In addition, since December 2013, we have hired the following additional key employees into the following positions who reflect our standards for integrity and ethical values:

- Senior Executive Vice President and Chief Financial Officer
- Senior Executive Vice President, Chief Administrative Officer and General Counsel
- Senior Executive Vice President and Chief Revenue Officer
- Executive Vice President and Chief Human Resource Officer
- Executive Vice President and Chief Information Officer
- Senior Vice President and Chief Accounting Officer
- Senior Vice President and Chief Audit Executive
- Senior Vice President, Procurement, Fleet and Project Management Office
- Senior Vice President, Financial Planning and Analysis

In addition to the senior management changes detailed above, in order to ensure we have a sufficient complement of personnel with an appropriate level of knowledge, experience, and training commensurate with our financial reporting requirements, during 2014 and 2015 we have hired personnel for all key positions in the financial reporting and accounting function and in some cases have created new positions, including:

- Senior Vice President and Controller (Corporate Finance)
- Senior Vice President and Controller (U.S. Rental Car Operations)
- Vice President, SOX Compliance
- Assistant Controller (Corporate Finance)
- Vice President, Reporting, Research and Policy
- Vice President, Financial Systems

- Vice President, Accounting and Assistant Controller Global Fleet
- Vice President, Dublin Financial Shared Service Center
- Senior Director, Oklahoma Financial Shared Service Center
- Senior Director, Program Accounting
- Senior Director, Financial Reporting
- Director, U.S. Rental Operations Finance Consolidation and Analytics
- Director, Financial Systems
- Director, Technical Accounting
- Director, Corporate Accounting
- Director, Consolidations
- Director, Policies and Procedures
- Director, Global Procure to Pay
- Director, SOX Compliance
- Director, North America General Accounting

To assist in the restatement activities we augmented our personnel with qualified consulting resources and they will continue to be augmented by the consulting resources for the remainder of 2015.

Further, in 2014, we reinforced the importance of adherence to established internal controls and Company policies and procedures through formal communications, town hall meetings and employee trainings. To communicate a proper ethical tone and corporate culture, Hertz's intranet website provides information on our philosophy and values. These philosophies and values, in addition to being addressed at personnel meetings, are periodically communicated to our employees via email notifications throughout the year.

In addition, we have established procedures for ensuring clear reporting structures, reporting lines, and decisional authority responsibilities in the organization and have enhanced communications with our operational departments, accounting, Board and Audit Committee.

To address the material weakness over the non-fleet procurement process, we have strengthened processes and controls for manual accruals and journal entries. In addition, we have enhanced an accrual methodology to ensure completeness over our non-fleet procurement liabilities.

To address the lack of training related to the implementation of our Oracle ERP system, in 2014 management engaged consulting resources to assist in the following:

- Completed a library of training modules for the Oracle application;
- Completed a series of live trainings for Oracle users; and
- Implemented enhanced knowledge management tools and protocols.

Other activities completed in 2014 and 2015 related to the Oracle ERP system include:

- Established a Financial Information Systems Steering Committee co-chaired by the Chief Accounting Officer and the Chief Information Officer to monitor activities and developments associated with our financial information systems;
- Established a data governance team to monitor activities associated with the data integrity of our financial information systems;
- Implemented changes within the Oracle application to enhance the quality of data and the timeliness of processing financial results; and
- Implemented security rule changes to enhance the quality and timeliness of reported results.

To further enhance the financial close process and address the remediation of this material weakness, our management is currently completing activities associated with our chart of accounts and utilization of Oracle ERP features.

We have taken steps to improve our design and maintenance of effective controls for accounting estimates, including:

- Where necessary, identified, implemented and documented controls over appropriate accounting methodologies for certain accounts;
- Held trainings with accounting staff in the first quarter of 2015 to ensure there is a thorough understanding of the underlying methodologies implemented;
- Established policies and procedures for the approval and implementation of new or modified accounting methodologies;
- Hired accounting personnel with an appropriate level of knowledge and experience to execute the underlying accounting methodologies; and
- Established policies and procedures for the review, approval and application of appropriate GAAP for transactions and accounting methodology changes.

In addition, to improve our controls over the processing of manual journal entries, we have reinforced procedures to ensure that manual journal entries recorded in our financial records are properly prepared, supported by adequate documentation, and independently reviewed and approved.

Risk Assessment

We are establishing mechanisms to identify, evaluate, and monitor risks to financial reporting throughout the organization to remediate our material weakness in the risk assessment process and monitoring, as described below.

We have designed and where appropriate enhanced controls over the preparation, analysis and review of transactions and, execution of balance sheet and significant account reconciliations. In addition, we have reinforced existing policies and procedures and enacted policy and procedures changes, where necessary, to better define requirements for effective and timely reconciliations of balance sheet and significant accounts, including independent review. We have also implemented a training program specific to the review and preparation of account reconciliations.

We are updating our global risk assessment. In addition, we have updated our internal audit plan to include internal audit monitoring activities responsive to the issues identified in our internal investigation and review of our financial records.

We have implemented new procedures and enhanced controls governing our internal management-led Disclosure Committee, sub-certification, and external reporting processes associated with the review and approval of the content of our SEC filings and other public disclosures.

Information and Communication

We have formalized procedures to ensure appropriate internal communication between the accounting department and other operating departments necessary to support the proper functioning of internal controls.

In addition, we are in the process of updating the corporate-wide accounting policies manual to ensure proper accounting for transactions in compliance with GAAP and consistently applied across all locations. Additional policies will also need to be developed and issued and corresponding training will need to be provided.

Monitoring

To address deficiencies in our internal audit function, we hired in 2015 a Senior Vice President and Chief Audit Executive, with global responsibilities. In addition, we have commenced recruiting for additional staff members and have recently hired a senior auditor. We are currently supplementing our personnel resources with a substantial number of internal audit consulting resources with financial accounting expertise.

We also have increased the number and quality of personnel assigned to management's internal controls assessment process. In 2014, we hired a Vice President of SOX Compliance and a Director of SOX Compliance. During 2014 and 2015 we have supplemented our personnel resources with a substantial number of consulting resources experienced in controls and SOX compliance.

During 2014 and 2015, the internal audit and SOX compliance teams enhanced (i) our processes associated with the scoping and identification of processes and key controls, (ii) the documentation of these processes and (iii) our testing procedures to promote the consistency and accuracy of conclusions, deliverables and disclosures associated with SOX compliance. An automated tool is being implemented to monitor these activities.

Changes in Internal Control over Financial Reporting

Our remediation efforts are ongoing. During the quarter ended December 31, 2014, we completed account reconciliation and internal controls trainings for our accounting personnel, created and completed Oracle trainings, enhanced data governance and implemented changes within the Oracle application to enhance the quality of data and the timeliness of processing financial results. There were no other material changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2014 that materially affected, or that are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

EXHIBIT NO. 2

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10601 / December 31, 2018

SECURITIES EXCHANGE ACT OF 1934
Release No. 84979 / December 31, 2018

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4012 / December 31, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18965

In the Matter of **HERTZ GLOBAL HOLDINGS, INC.** **and** **THE HERTZ CORPORATION,** **Respondents.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against the entities currently known as Hertz Global Holdings, Inc. and The Hertz Corporation (collectively, "Respondents" or "Hertz").

II.

In anticipation of the institution of these proceedings, Respondents have submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over them and the subject matter of these

proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offer, the Commission finds[1] that:

Summary

1. Respondent Hertz Global Holdings, Inc. ("Hertz Holdings") is the accounting successor to an entity also called Hertz Global Holdings, Inc. ("Hertz Global"), and Respondent The Hertz Corporation ("Hertz Corp.") is its wholly owned subsidiary.

2. From at least February 2012 through March 2014, Hertz's public filings materially misstated pretax income because of accounting errors made in a number of business units, and over multiple reporting periods, as reflected in the Restatement that Hertz filed on July 16, 2015. Part of the misstated income resulted from errors made in various accounts that are subject to management estimate. For example, Hertz's car rental business routinely recovers sums of money from third parties for damages that occur during rental. Hertz estimated an allowance for uncollectible amounts as an offset to what it recorded as potential recoveries. For years, Hertz's allowance related expenses were understated and income was inflated because Hertz relied on inappropriate estimation methodologies that resulted in inadequate allowances and write-offs. The inappropriate methodologies occurred within a pressured corporate environment where, in certain instances, there was an inappropriate emphasis on meeting internal budgets, business plans, and earnings estimates.

3. Pressure also existed at times when other inadequate disclosures were filed with the Commission. For example, Hertz, consistent with the regular course of its business, routinely estimated how long it would hold cars before disposing of them and replacing them. The planned holding periods were one of the variables in the formula Hertz used to depreciate its car rental assets, and also could have impacted other aspects of Hertz's business, such as maintenance costs. During 2013, Hertz decided to extend the holding periods of a significant portion of its U.S. car rental fleet. That decision, and its impact on aspects of Hertz's business, were not adequately disclosed to investors.

4. Also in 2013, after having already revised its earnings guidance downward, Hertz reaffirmed the revised guidance publicly in November 2013 despite certain internal analysis indicating that the revised guidance had been based in part on inaccurate information and that certain recent internal estimates fell below the low end of that guidance range.

---

[1] The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. On July 16, 2015, Hertz restated its financial results for 2012, 2013, and prior periods, including selected data for 2011 (unaudited). Including revisions made in early 2014, the company reduced its previously reported GAAP pretax income by a total of $235 million (the "Restatement"). The Restatement identified 17 areas with material accounting errors across the company's business units, identified additional information regarding historical depreciation and planned holding periods, identified eleven separate material weaknesses in Hertz's internal controls over financial reporting, and acknowledged that "an inconsistent and sometimes inappropriate tone at the top" had existed and may have contributed to a number of errors, misstatements and omissions.

6. Based on the foregoing and the conduct described herein below, Hertz Holdings violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder, and Hertz Corp. violated Section 15(d) of the Exchange Act and Rules 12b-20, 15d-1, 15d-11 and 15d-13 thereunder.

Respondents

7. **Hertz Global Holdings, Inc.** ("Hertz Holdings") is a Delaware corporation headquartered in Estero, Florida. Its securities are registered pursuant to Section 12(b) of the Exchange Act. Its common stock trades on the New York Stock Exchange, and Hertz Holdings files periodic reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. As of June 30, 2016, Hertz Holdings was spun off from and designated as the accounting successor to Hertz Global, whose securities had also been registered pursuant to Section 12(b) of the Exchange Act.

8. **The Hertz Corporation** ("Hertz Corp.") is a Delaware corporation headquartered in Estero, Florida. It filed registration statements with the Commission on Form S-4 that became effective in February and October 2013. Accordingly, as required by Section 15(d) of the Exchange Act, Hertz Corp. filed periodic reports, including Forms 10-K and 10-Q, respecting fiscal year 2013 pursuant to Section 15(d) of the Exchange Act and related rules thereunder. Hertz Corp. is the wholly-owned operating subsidiary of Hertz Holdings, and it previously was the wholly-owned subsidiary of Hertz Global.

Facts

Hertz's Inaccurate Financial Reporting

9. As noted, the Restatement identified a total of $235 million in previously reported pretax income did not comply with generally accepted accounting principles ("GAAP"). One of the largest Restatement items concerned various internal accounts associated with "subrogation," which accounted for a cumulative pre-tax misstatement of $48 million.

10. Subrogation refers to Hertz's efforts to offset expenses for vehicle damage during rental periods by recovering money from renters and other third parties, depending on whether there was applicable insurance or credit card coverage and, in some cases, whether the renters purchased the loss damage waiver. Hertz accounted for subrogation by recording income and a receivable for amounts subject to recovery, partially offset by an associated expense and allowance for the possibility that some percentage of those amounts might not be recovered. Amounts ultimately uncollected would be written off against the allowance.

11. FASB Accounting Standards Codification Topic 450, "Contingencies" (ASC 450), provides guidance on the accounting for collectability of receivables. ASC 450-20-25-2 requires the accrual of losses from uncollectible receivables if a loss is probable and the amount of the loss can be reasonably estimated. Hertz's longstanding policy for calculating the allowance was based on a rolling 12-month average, not of collections experience, but of write-offs, divided by monthly billed receivables.

12. Starting in August 2012, Hertz began sending claims greater than $5,000 that remained uncollected after approximately 120 days to attorneys to assist in the collections process. Whereas amounts due for more than approximately 120 days and sent to third parties for collection had previously been written off, Hertz did not significantly increase its allowance for or write off such amounts when sent to attorneys for collection. Instead, such claims were held and allowed for or written off on a case-by-case basis, based on the rationale that attorneys would be better at collecting debts but would take more time to do so. In addition, while Hertz's previous policy had been to maintain a 100% allowance for all claims older than 360 days, the allowance for claims sent to attorneys was then set based on the methodology used for other claims, using the much lower, rolling historical rate of overall claims write-offs, which averaged from approximately 11-16%.

13. However, at the time of these accounting changes, Hertz did not have historical data with respect to the speed of attorney collections or the amount that attorneys would collect. Months later, the actual attorneys' net collection rates for August through December 2012 were approximately 2%. Still, under persistent pressure to meet budgets, and to generate opportunities to help close company-wide budget gaps or revenue shortfalls, subrogation staff did not significantly increase the allowance for or write off most of these aging attorney-held claims. This was not in accordance with GAAP.

14. During 2013, on several occasions Hertz changed the methodology for either determining the subrogation allowance or the amounts of aged debt to be written off. Each of the changes had a favorable impact on the company's financial statements. And each of the changes was not in accordance with U.S. GAAP.

15. For example, in May 2013 Hertz's Internal Audit Department identified a spreadsheet error that had resulted in recording no allowance at all for any receivables aged over 360 days, whether or not sent to attorneys. Correcting the error by establishing a 100% allowance for such aged claims would have resulted in a $7 million increase to the company's

expenses. Instead, Hertz staff reserved the receivables aged over 360 days at the rolling 12-month average write-off rate of 11%, based on the rationale that attorneys – who had most of the year-old receivables – would achieve substantial recoveries, and that Hertz did not yet have enough experience to gauge the level of reserve needed for those claims. This was inconsistent with actual results over the first nine months of the attorney referrals, which had yielded an approximately 3% net recovery rate. Moreover, other subrogation receivables uncollected for over 360 days that were not being handled by attorneys also were relieved of the 100% allowance requirement. Thus, instead of $7 million, expenses were increased by less than $1 million.

16. Likewise, in the fall of 2013 budget pressure at Hertz was severe, as the company had revised its earnings guidance downward in September, only to have certain internal earnings estimates fall below even the lowered guidance in October. A "gap-closing" effort ensued, and one idea that emerged from within senior Hertz management was to lower the allowance in subrogation and other parts of the U.S. rental car business. As of the beginning of October 2013, approximately $9.3 million of subrogation receivables remained on Hertz's books though they were over a year old.

17. In response to the gap-closing effort, Hertz staff proposed reducing certain non-subrogation allowances, but recommended a corresponding increase in the subrogation allowance, to alleviate the risk associated with the aged receivables. After internal review, the allowance for aged subrogation receivables was increased, but the allowance applied to younger receivables was reduced. Based on the methodology worked out during this process, some categories of receivables were reserved at an effective rate of approximately 4%, which implied a 96 percent recovery rate that was substantially above historical recovery rates for billed receivables.

18. Finally, in May 2012, April 2013, and May 2013 Hertz headquarters personnel directed the staff with primary responsibility for the subrogation accounts to make post-close adjustments to the subrogation unbilled receivable account, each of which departed from the historical methodology and improved reported results by approximately $1 million. No formal documentation of a rationale for these changes has been identified. In the summer of 2013, Hertz's Internal Audit Department discovered that the April 2013 $1.2 million post-close adjustment lacked the written documentation of the rationale supporting the adjustment that was required by Hertz accounting policy. Ultimately, in September 2013, Internal Audit declared the incident a controls deficiency during its Sarbanes-Oxley independent controls testing.

<u>Hertz's Misstatements and Omissions Concerning its Extension of Fleet Holding Periods</u>

19. At various times during the second through the fourth quarters of 2013, Hertz extended the planned holding periods for a significant portion of Hertz's U.S. rental car fleet. Many of the company's top models, for example, had their planned holding periods extended from 20 to 24 or 30 months.

20. The decisions were changes from prior practice with regard to planned holding periods, and made Hertz's planned holding periods for portions of the fleet longer than those of

other major car rental companies. For Hertz, extending holding periods had a short-term benefit: it spread out over more months the depreciation expense Hertz had to incur on its cars, lowering such expense overall for current quarters. At the same time, extending holding periods had long-term risks, including that older cars were likely to require more costly maintenance, and could injure Hertz's premium brand.

21. FASB Accounting Standards Codification Topic 250-10-50-4 provides that the effect on, among other things, net income of a change in accounting estimate that affects several future periods, such as a change in service lives for depreciable assets, shall be disclosed. If a change in estimate does not have a material effect in the period of change but is reasonably certain to have a material effect in later periods, a description of that change in estimate must be disclosed whenever the financial statements of the period of change are presented.

22. During 2013, Hertz did not adequately disclose its decision to extend the planned holding period for substantial portions of its fleet. To the contrary, in its Form 10-Q for the second quarter of 2013, filed on August 2, 2013, Hertz stated the following concerning its depreciation policies in Management's Discussion of and Analysis of Financial Condition and Results of Operations ("MD&A"): "Depreciation rates are reviewed on a quarterly basis based on management's routine review of present and estimated future market conditions and their effect on residual values at the time of disposal. During the six months ended June 30, 2013, depreciation rates being used to compute the provision for depreciation of revenue earning equipment were adjusted on certain vehicles in our car rental operations to reflect changes in the estimated residual values to be realized when revenue earning equipment is sold." Hertz did not state in this Form 10-Q – as the Restatement later did - the significant adjustment it had made to extend the planned holding periods.

23. In the same filing's MD&A, Hertz stated the following explanation for why its depreciation expense had declined by $15 million in the first half of the year, a decline concentrated almost entirely in the second quarter: "In the six months ended June 30, 2013, our monthly per vehicle depreciation costs decreased as compared to the prior year period due to improved residual values in the U.S., a continued move towards a greater proportion of non-program vehicles, mix optimization and improved procurement and remarketing efforts." In fact, however, this disclosure, which tracked the language from Hertz's disclosure in its Form 10-Q for the first quarter of 2013, was inaccurate, because residual values had declined in the second quarter of 2013, a fact discussed within Hertz. In addition, the disclosure did not address – as the Restatement did two years later – that extensions of holding periods had reduced depreciation expense.

24. The MD&A in the Form 10-Q for the third quarter of 2013 contained similar disclosures relating to typical adjustments in depreciation rates that omitted the adjustment in planned holding periods. Likewise, the filing explained the $18 million decline in depreciation expense in the third quarter of 2013 in a manner similar to that stated in the Form 10-Q for the second quarter of 2013, stating that "monthly per vehicle depreciation costs decreased as compared to the prior year period due to residual values that remained strong in the U.S., a continued move

towards a greater proportion of non-program vehicles, mix optimization and improved procurement and remarketing efforts." The disclosure once again did not adequately disclose the impact of longer planned holding periods later identified in the Restatement.

25. Moreover, Hertz's Form 10-K for 2013, filed in March 2014, recited that "our approximate average holding period for a rental car was eighteen months in the United States." This was the same 18-month average holding period reported in the Form 10-K for 2012, despite the intervening increases in planned holding periods for a substantial portion of the fleet. During 2013, the weighted average of all planned holding periods across the U.S. fleet increased, from 21 to almost 25 months. The disclosure of the 18-month average did not explain that the average had been calculated from the age of cars that had been disposed of, and not from the planned holding period that had changed for portions of the fleet. The MD&A in the same filing did not address the extension of planned holding periods, other than to list generally "extended holding periods" as one of several factors causing an increase in maintenance costs. While Hertz's Form 10-K for 2013 disclosed that the "holding periods" for its cars ranged from 4 to 36 months, a broader range than the 4 to 28 months disclosed in its Form 10-K for 2012, that disclosure did not address either the scale of the shift to longer planned holding periods or that the cause was the result of an affirmative business decision to extend planned holding periods.

26. In late 2014, new Hertz management changed the fleet plan to include shorter planned holding periods. Hertz's Form 10-K for 2014 filed on July 16, 2015, which included the Restatement, disclosed that there had been extensions in planned holding periods and the reduction in the company's 2013 depreciation expense that resulted from the longer holding periods. As Hertz also disclosed in this Form 10-K, "[f]leet related expenses" in 2014 "increased $182 million" due to increases in vehicle maintenance expense, vehicle damage expense, and damage related liability, which resulted from the "age and mileage" of the company's fleet and having an "older fleet compared with the prior year," as well as certain other factors.

<u>Hertz's Misstatements Concerning its Earnings Guidance in November 2013</u>

27. Hertz also misrepresented the extent of its declining internal forecasts of overall financial performance in November 2013. On September 26, 2013, Hertz revised downward the earnings guidance it had issued in February 2013, based on a series of business and financial setbacks. The revised guidance was disclosed in a press release issued on the same day that Hertz publicly filed a slide deck from an investor conference presentation in which it was participating. The new guidance reduced projected 2013 net income from a range of $1.78-1.88 per share to a new range of $1.68-1.78 per share. Contemporaneous internal analysis projected the company's 2013 results at $1.72 per share.

28. Within two weeks, however, certain new internal analysis and data forecasted Hertz's performance to be below the low end of the revised guidance range. Strenuous "gap-closing" efforts ensued, but by the end of October a Hertz internal estimate for 2013 still projected EPS at $1.66. Moreover, the company's process of identifying "opportunities and risks" not yet built into its projections for year-end financial results yielded a lower number: $1.65 per share.

29. Hertz had analysis done to determine why internal estimates had changed so quickly. One analysis determined that the September 2013 revision had been flawed in part. Methodological errors occurred, such as recognizing marketing credits in 2013 when the accounting department had determined that in part they could only be recognized in 2014.

30. Nonetheless, Hertz reaffirmed its $1.68-1.78 guidance range when it issued its third quarter 2013 financial statements on November 4, 2013.

Hertz's Internal Accounting Controls Failures

31. As set forth in the Restatement, Hertz's internal controls over financial reporting suffered from a series of material weaknesses that contributed to the restatement of the company's financial statements for 2012 and 2013 and each of the quarters of 2013. These included an inconsistent and sometimes inappropriate tone at the top, insufficient and inadequately trained financial personnel, unclear reporting lines, the distraction caused by multiple, conflicting business initiatives, and ineffective controls over procurement, exacerbated by problems associated with implementation of a new Oracle enterprise resource management system to manage Hertz's day-to-day business activities. All of these in turn contributed to the types of additional accounting-related material weaknesses detailed above: inadequate controls over accounting estimates, changes to accounting policies, journal entries, and the period-end financial reporting process, including account reconciliations and closing adjustments. Finally, as was also disclosed in the Restatement, Hertz's internal audit function lacked systems and personnel adequate to ensure the adequate monitoring of control activities.

32. For example, in the third quarter of 2013, Hertz staff performed some testing of relevant internal controls. In mid-November 2013 management informed the audit committee of Hertz's board of directors that there were no significant deficiencies in internal controls over financial reporting. Shortly thereafter, more analysis was performed, which revealed what the company determined to be pervasive problems with its journal entries and account reconciliations, which had existed throughout 2013. As noted above, the Restatement determined that these problems constituted material weaknesses.

Hertz's Restatement, Internal Investigation and Cooperation with SEC Staff

33. On May 13, 2014, Hertz announced that it was unable to file its Form 10-Q for the first quarter of 2014, explaining that it had identified certain errors relating to prior periods which might require it to restate its previously issued financial statements for 2011.

34. On June 6, 2014, Hertz further announced that its continuing review had identified additional accounting errors, that its Audit Committee had determined that the company's 2011 financial statements should no longer be relied upon and must be restated, and that it was reviewing its 2012 and 2013 financial statements to determine if a restatement of the financial statements in those periods would also be required. It also announced that it had identified at least one material weakness in its internal control over financial reporting and that its disclosure controls

and procedures were ineffective at December 31, 2013. The June 6, 2014 announcement further disclosed that Hertz was in the process of implementing new procedures and controls and strengthening its accounting and finance departments through the addition of new personnel, led by the recently hired Chief Financial Officer and with the assistance of a new Chief Accounting Officer and new Vice President of SOX/Compliance. Also in June 2014, the audit committee commenced an investigation of certain identified accounting errors with the participation of independent counsel.

35. On August 19, 2014, Hertz announced the departure and replacement of its lead independent director, and on September 8, 2014, it announced the departure and replacement of its chief executive officer. On November 14, 2014, Hertz announced that in addition to 2011, its 2012 and 2013 financial statements must be restated and should no longer be relied upon. On July 16, 2015, based on the results of its accounting review and the internal investigation led by its outside counsel, Hertz restated its 2011, 2012 and 2013 financial statements and disclosed 11 material weaknesses in its internal control over financial reporting.

36. The Restatement items and other material misstatements discussed above impacted, in sum, Hertz Holdings' Forms 10-K, Forms 10-Q, and/or earnings reports on Forms 8-K from at least February 2012 to March 2014, each of which was incorporated into continuous offerings and sales made during the same period pursuant to registration statements on Form S-8s filed by Hertz Holdings on May 22, 2008, August 13, 2010 and August 16, 2013 that registered the offer and sale of stock under an Employee Stock Purchase Plan and the sale of stock upon the exercise of stock options under an Omnibus Incentive Plan. They also affected Hertz Corp.'s parallel filing of Forms 10-K, Forms 10-Q and/or earnings reports on Forms 8-K, which were required to be filed from at least February 2013 through March 2014.

37. Throughout the staff's investigation, Respondents met with staff on multiple occasions, voluntarily providing information likely to be of interest to the staff, both on their own initiative and at the staff's request.

<u>Violations</u>

38. As a result of the conduct described above:

a. Respondent Hertz Holdings violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, which prohibit any person from directly or indirectly obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they made, not misleading, or engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser, in the offer or sale of securities. Claims under Sections 17(a)(2) and 17(a)(3) of the Securities Act do not require a showing of scienter; instead, a showing of negligence is

sufficient. *Aaron v. SEC*, 446 U.S. 680, 697 (1980); *SEC v. Hughes Capital Corp*., 124 F.3d 449, 453-54 (3d Cir. 1997);

b. Respondent Hertz Holdings violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, which require issuers with securities registered under Section 12 of the Exchange Act to file annual, current, and quarterly reports with the Commission containing such information as the Commission's rules may require and such further material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading. Additionally, the failure of the MD&As in Respondent Hertz Holdings' 2013 Form 10-K and Q2 and Q3 2013 Form 10-Qs to comply with Regulation S-K constitutes a violation under Section 13(a) of the Exchange Act. Finally, the failure of Respondent Hertz Holdings' Q2 and Q3 2013 Form 10-Qs to comply with Regulation S-X constitutes a violation under Section 13(a) of the Exchange Act;

c. Respondent Hertz Corp, violated Section 15(d) of the Exchange Act and Rules 12b-20, 15d-1, 15d-11 and 15d-13 thereunder, which require issuers which have filed a registration statement with the Commission which has become effective pursuant to Section 15(d) of the Exchange Act to file annual, current, and quarterly reports with the Commission containing such information as the Commission's rules may require and such further material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading. Additionally, the failure of Respondent Hertz Corp.'s 2013 Form 10-K and Q2 and Q3 2013 Form 10-Qs to comply with Regulation S-K constitutes a violation under Section 15(d) of the Exchange Act, and the failure of its Q2 and Q3 2013 Form 10-Qs to comply with Regulation S-X constitutes a violation under Section 15(d) of the Exchange Act;

d. Respondents violated Section 13(b)(2)(A) of the Exchange Act, which requires issuers with securities registered under Section 12 of the Exchange Act or which are required to file reports pursuant to Section 15(d) of the Exchange Act to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the issuer; and

e. Respondents violated Section 13(b)(2)(B) of the Exchange Act, which requires issuers with securities registered under Section 12 of the Exchange Act or which are required to file reports pursuant to Section 15(d) of the Exchange Act to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurance that, among other things, transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP.

Respondents' Remedial Efforts

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by Respondents, including replacement of numerous members of senior management and lower-level staff, and cooperation afforded the Commission staff.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offer.

Accordingly, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Hertz Holdings cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act and Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder.

B. Respondent Hertz Corp. cease and desist from committing or causing any violations and any future violations of Sections 13(b)(2)(A), 13(b)(2)(B) and 15(d) of the Exchange Act and Rules 12b-20, 15d-1, 15d-11 and 15d-13 thereunder.

C. Respondent Hertz Holdings shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of $16,000,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

(1) Hertz Holdings may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Hertz Holdings may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Hertz Holdings may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341

6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Hertz Holdings as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Sanjay Wadhwa, Senior Associate Regional Director, Division of Enforcement, New York Regional Office, Securities and Exchange Commission, Brookfield Place, 200 Vesey Street, New York, NY 10281.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Hertz Holdings agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Hertz Holdings' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Hertz Holdings agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Hertz Holdings by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

E. Respondents acknowledge that the Commission is not imposing a civil penalty in excess of $16,000,000.00 based upon their cooperation in a Commission investigation. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondents knowingly provided materially false or misleading information or materials to the Commission, or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondents, petition the Commission to reopen this matter and seek an order directing that the Respondents pay an additional civil penalty. Respondents may contest by way of defense in any resulting administrative proceeding whether they knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Brent J. Fields
Secretary

EXHIBIT NO. 3

Exhibit 3

MARK FRISSORA

Agreement Title	**Date**	**Reference to ClawBack Policy**
Performance Stock Unit Agreement	2 agreements, each dated as of March 1, 2011 March 6, 2012 3 agreements, each dated as of Feb. 28, 2013	§ 9(l) § 9(l) § 9(l)
Employee Stock Option Agreement	March 1, 2011	§ 8(m)
Price Vested Stock Unit Agreement	March 6, 2012	§ 9(l)
Separation Agreement	Sept. 14, 2014	§ 8

ELYSE DOUGLAS

Agreement Title	**Date**	**Reference to ClawBack Policy**
Performance Stock Unit Agreement	March 1, 2011 March 6, 2012 3 agreements, each dated as of Feb. 28, 2013	§ 9(l) § 9(l) § 9(l)
Employee Stock Option Agreement	March 1, 2011	§ 8(m)
Price Vested Stock Unit Agreement	March 6, 2012	§ 9(l)

JOHN JEFFREY ZIMMERMAN

Agreement Title	**Date**	**Reference to ClawBack Policy**
Performance Stock Unit Agreement	March 1, 2011 March 6, 2012 3 agreements, each dated as of Feb. 28, 2013	§ 9(l) § 9(l) § 9(l)
Employee Stock Option Agreement	March 1, 2011	§ 8(m)
Price Vested Stock Unit Agreement	March 6, 2012	§ 9(l)